

# UNITED STATES STATUTES AT LARGE

CONTAINING THE

LAWS AND CONCURRENT RESOLUTIONS  
ENACTED DURING THE SECOND SESSION OF THE  
ONE HUNDRED SECOND CONGRESS  
OF THE UNITED STATES OF AMERICA

1992

AND

TWENTY-SEVENTH AMENDMENT TO THE  
CONSTITUTION AND PROCLAMATIONS

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VOLUME 106

IN SIX PARTS

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PART 5

PUBLIC LAWS 102-550 THROUGH 102-573



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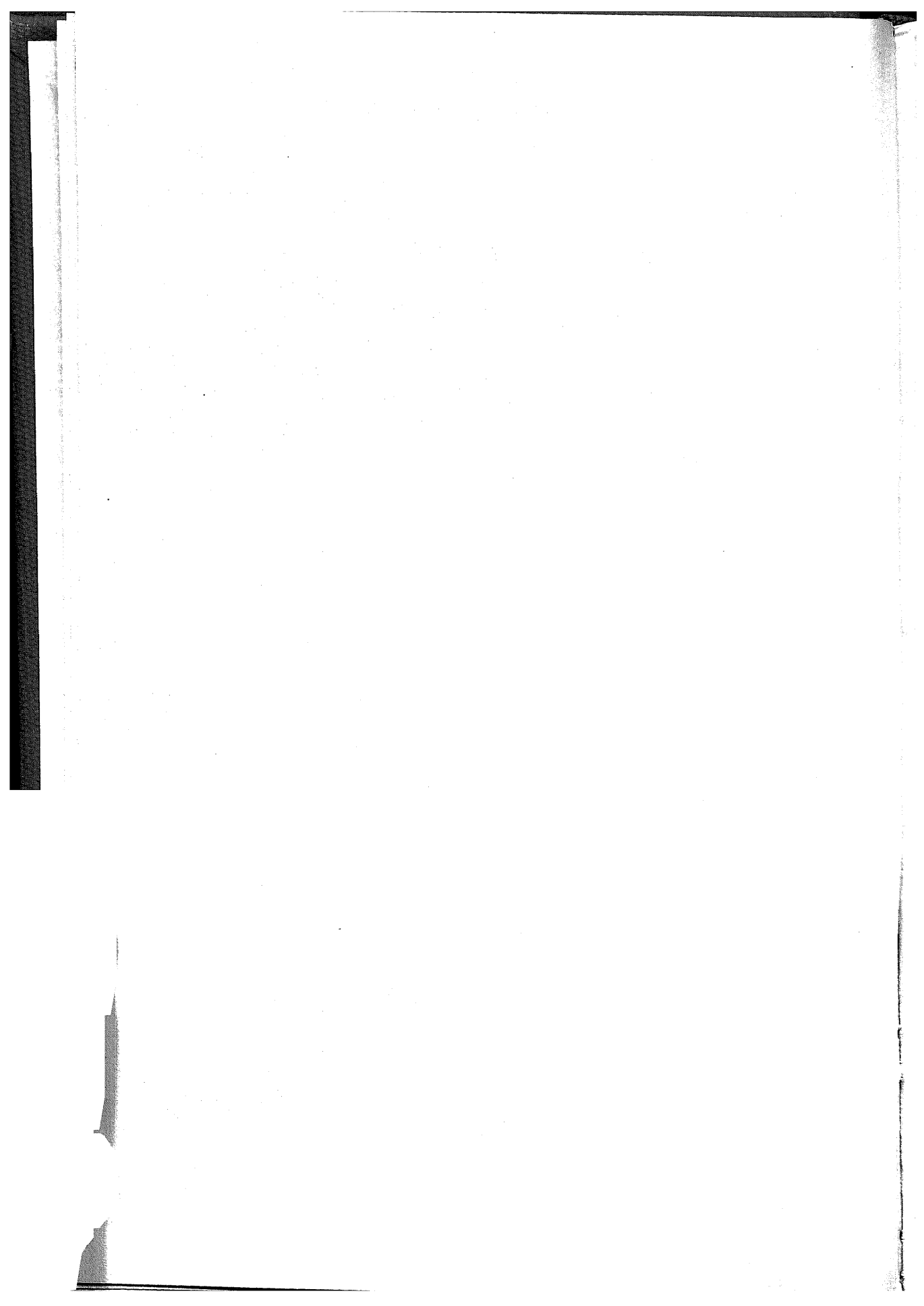
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102d Congress

An Act

Oct. 28, 1992  
[H.R. 5334]

Housing and  
Community  
Development  
Act of 1992.  
42 USC 5301  
note.

To amend and extend certain laws relating to housing and community development, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

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**Subtitle D—Reports and Miscellaneous**

- Sec. 1541. Study and report on reimbursing financial institutions and others for providing financial records.
- Sec. 1542. Reports of information regarding safety and soundness of depository institutions.
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**Subtitle E—Counterfeit Deterrence**

- Sec. 1551. Short title.
- Sec. 1552. Increase in penalties.
- Sec. 1553. Deterrents to counterfeiting.
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- Sec. 1561. Civil money penalties.
- Sec. 1562. Authority to order depository institutions to obtain copies of CTRS from customers which are unregulated businesses.
- Sec. 1563. Whistleblower protection for employees of financial institutions other than depository institutions.
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- Sec. 1601. Table of contents.
- Sec. 1602. Transfer and redesignation of sections with duplicate section numbers.
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- Sec. 1605. Technical corrections relating to title III of the Federal Deposit Insurance Corporation Improvement Act of 1991.
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- Sec. 1608. Federal Housing Finance Board practice required to conform to congressional intent and existing law.
- Sec. 1609. Effective date.

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- Sec. 1611. Technical corrections relating to title I of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991.
- Sec. 1612. Technical corrections relating to title II of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991.
- Sec. 1613. Technical corrections relating to title III of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991.
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- Sec. 1615. Technical corrections relating to title V of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991.
- Sec. 1616. Technical corrections relating to title VI of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991.
- Sec. 1617. Repeal of title consisting of amendments duplicated in the Federal Deposit Insurance Corporation Improvement Act of 1991.
- Sec. 1618. Effective date.

**SEC. 2. EFFECTIVE DATE.**

42 USC 5301  
note.

The provisions of this Act and the amendments made by this Act shall take effect and shall apply upon the date of the enactment of this Act, unless such provisions or amendments specifically provide for effectiveness or applicability upon another date certain.

**TITLE I—HOUSING ASSISTANCE****Subtitle A—General Provisions****SEC. 101. LOW-INCOME HOUSING AUTHORIZATION.**

(a) **AGGREGATE BUDGET AUTHORITY.**—Section 5(c)(6) of the United States Housing Act of 1937 (42 U.S.C. 1437c(c)(6)) is amended by adding at the end the following new sentence: "The aggregate amount of budget authority that may be obligated for assistance referred to in paragraph (7) is increased (to the extent approved in appropriation Acts) by \$14,710,990,520 on October 1, 1992, and by \$15,328,852,122 on October 1993."

(b) **UTILIZATION OF BUDGET AUTHORITY.**—Section 5(c)(7) of the United States Housing Act of 1937 (42 U.S.C. 1437c(c)(7)) is

amended by striking the paragraph designation and all that follows through the end of subparagraph (B) and inserting the following:

"(7)(A) Using the additional budget authority provided under paragraph (6) and the balances of budget authority that become available during fiscal year 1993, the Secretary shall, to the extent approved in appropriation Acts, reserve authority to enter into obligations aggregating—

"(i) for public housing grants under subsection (a)(2), not more than \$830,900,800, of which amount not more than \$257,320,000 shall be available for Indian housing;

"(ii) for assistance under section 8, not more than \$1,977,662,720, of which \$20,000,000 shall be available for 15-year contracts for project-based assistance to be used for a multicultural tenant empowerment and homeownership project located in the District of Columbia, except that assistance provided for such project shall not be considered for purposes of the percentage limitations under section 8(i)(2); except that not more than 49 percent of any amounts appropriated under this clause may be used for vouchers under section 8(o);

"(iii) for comprehensive improvement assistance grants under section 14(k), not more than \$3,100,000,000;

"(iv) for assistance under section 8 for property disposition, not more than \$93,032,000;

"(v) for assistance under section 8 for loan management, not more than \$202,000,000;

"(vi) for extensions of contracts expiring under section 8, not more than \$6,746,135,000, which shall be for 5-year contracts for assistance under section 8 and for loan management assistance under such section;

"(vii) for amendments to contracts under section 8, not more than \$1,350,000,000;

"(viii) for public housing lease adjustments and amendments, not more than \$83,055,000;

"(ix) for conversions from leased housing contracts under section 23 of this Act (as in effect immediately before the enactment of the Housing and Community Development Act of 1974) to assistance under section 8, not more than \$12,767,000; and

"(x) for grants under section 24 for revitalization of severely distressed public housing, not more than \$300,000,000.

"(B) Using the additional budget authority provided under paragraph (6) and the balances of budget authority that become available during fiscal year 1994, the Secretary shall, to the extent approved in appropriation Acts, reserve authority to enter into obligations aggregating—

"(i) for public housing grants under subsection (a)(2), not more than \$865,798,634, of which amount not more than \$268,127,440 shall be available for Indian housing;

"(ii) for assistance under section 8, not more than \$2,060,724,554, of which \$20,000,000 shall be available for 15-year contracts for project-based assistance to be used for a multicultural tenant empowerment and homeownership project located in the District of Columbia, except that assistance provided for such project shall not be considered for purposes of the percentage limitations under section 8(i)(2); except that not more than 49 percent of any amounts appropriated under this clause may be used for vouchers under section 8(o);

"(iii) for comprehensive improvement assistance grants under section 14(k), not more than \$3,230,200,000;

"(iv) for assistance under section 8 for property disposition, not more than \$96,939,344;

"(v) for assistance under section 8 for loan management, not more than \$210,484,000;

"(vi) for extensions of contracts expiring under section 8, not more than \$7,029,472,670, which shall be for 5-year contracts for assistance under section 8 and for loan management assistance under such section;

"(vii) for amendments to contracts under section 8, not more than \$1,406,700,000;

"(viii) for public housing lease adjustments and amendments, not more than \$86,543,310;

"(ix) for conversions from leased housing contracts under section 23 of this Act (as in effect immediately before the enactment of the Housing and Community Development Act of 1974) to assistance under section 8, not more than \$13,303,214; and

"(x) for grants under section 24 for revitalization of severely distressed public housing, not more than \$312,600,000."

#### SEC. 102. EXTENSION OF CEILING RENTS.

(a) REMOVAL OF 5-YEAR LIMIT.—Section 3(a)(2)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437a(a)(2)(A)) is amended by striking "for not more than a 5-year period".

(b) EXTENSION OF PREVIOUS CEILING RENTS.—Section 3(a)(2)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437a(a)(2)(B)) is amended—

(1) by striking the first sentence; and

(2) in the last sentence, by striking "for the 5-year period beginning on such date of enactment" and inserting "without time limitation".

#### SEC. 103. DEFINITIONS OF INCOME AND ADJUSTED INCOME AND APPLICABILITY TO INDIAN HOUSING PROGRAMS.

(a) IN GENERAL.—

(1) INCOME.—Section 3(b)(4) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(4)) is amended by inserting after "family" the following: "and any amounts which would be eligible for exclusion under section 1613(a)(7) of the Social Security Act (42 U.S.C. 1382b(a)(7))".

(2) ADJUSTED INCOME.—Section 3(b)(5) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(5)) is amended—

(A) by striking subparagraph (D) and inserting the following new subparagraph:

"(D) child care expenses to the extent necessary to enable another member of the family to be employed or to further his or her education;";

(B) by striking "and" at the end of subparagraph (E);

(C) by striking the period at the end of subparagraph (F) and inserting "; and"; and

(D) by inserting after subparagraph (F) the following new subparagraph:

"(G) excessive travel expenses, not to exceed \$25 per family per week, for employment- or education-related travel, except that this subparagraph shall apply only to families assisted by Indian housing authorities."

42 USC 1437a  
note.

42 USC 1437aa  
note.

Regulations.  
42 USC 1437d  
note.

(3) **BUDGET COMPLIANCE.**—To the extent that the amendments made by paragraphs (1) and (2) result in additional costs under this title, such amendments shall be effective only to the extent that amounts to cover such additional costs are provided in advance in appropriation Acts.

(b) **APPLICABILITY OF DEFINITIONS TO INDIAN HOUSING.**—

(1) **IN GENERAL.**—In accordance with section 201(b)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437aa(b)(2)), the provisions of sections 572, 573, and 574 of the Cranston-Gonzalez National Affordable Housing Act shall apply to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian Housing Authority.

(2) **EFFECTIVE DATE.**—Paragraph (1) shall take effect as if such provision were enacted upon the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act.

#### **SEC. 104. PUBLIC AND SECTION 8 HOUSING TENANT PREFERENCE RULES.**

Not later than the expiration of the 180-day period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall issue regulations implementing the amendments made by sections 501 and 545 of the Cranston-Gonzalez National Affordable Housing Act. The regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section) and shall take effect upon issuance.

#### **SEC. 105. INCOME ELIGIBILITY FOR ASSISTED HOUSING.**

(a) **EXEMPTION FROM WAITING LIST REQUIREMENTS.**—Section 16(c) of the United States Housing Act of 1937 (42 U.S.C. 1437n(c)) is amended—

(1) in the first sentence, by striking the second comma and inserting “and”;

(2) in the first sentence, by striking “, and shall” and inserting “, In developing such admission procedures, the Secretary shall”; and

(3) by inserting before the period at the end of the penultimate sentence the following: “, except that such prohibition shall not apply with respect to families selected for occupancy in public housing under the system of preferences established by the agency pursuant to section 6(c)(4)(A)(ii)”.

(b) **EXEMPTION FROM ELIGIBILITY RESTRICTIONS.**—Section 16(d)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437n(d)(2)) is amended by inserting before the period “, to scattered site public housing dwelling units sold or intended to be sold to public housing tenants under section 5(h) of this title.”.

#### **SEC. 106. FAMILY SELF-SUFFICIENCY PROGRAM.**

(a) **RESERVATION OF OPERATING SUBSIDIES.**—The last sentence of section 23(h)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437u(h)(2)) is amended to read as follows: “Of any amounts appropriated under section 9(c) for fiscal year 1993, \$25,000,000 is authorized to be used for costs under this paragraph, and of any amounts appropriated under such section for fiscal year 1994, \$25,900,000 is authorized to be used for costs under this paragraph.”.

(b) **EXCEPTION TO REQUIRED ESTABLISHMENT OF PROGRAM.**—Section 23(b)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437u(b)(2)) is amended by striking subparagraphs (A) through (D) and inserting the following:

“(A) lack of supportive services accessible to eligible families, which shall include insufficient availability of resources for programs under the Job Training Partnerships Act or the Job Opportunities and Basic Skills Training Program under part F of title IV of the Social Security Act;

“(B) lack of funding for reasonable administrative costs;

“(C) lack of cooperation by other units of State or local government; or

“(D) any other circumstances that the Secretary may consider appropriate.

In allocating assistance available for reservation under this Act, the Secretary may not refuse to provide assistance or decrease the amount of assistance that would otherwise be provided to any public housing agency because the agency has provided a certification under this paragraph or because, pursuant to a certification, the agency has failed to carry out a self-sufficiency program.”.

(c) **NONPARTICIPATION.**—Section 23(b) of the United States Housing Act of 1937 (42 U.S.C. 1437u(b)) is amended by adding at the end the following new paragraph:

“(4) **NONPARTICIPATION.**—Assistance under the certificate or voucher programs under section 8 for a family that elects not to participate in a local program shall not be delayed by reason of such election.”.

(d) **CONTRACT OF PARTICIPATION.**—Section 23(c)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437u(c)(1)) is amended—

(1) in the second sentence, by inserting after “program” the following: “, shall establish specific interim and final goals by which compliance with and performance of the contract may be measured,”; and

(2) by striking the last sentence and inserting the following new sentences: “The contract shall provide that the public housing agency may terminate or withhold assistance under section 8 and services under paragraph (2) of this subsection if the public housing agency determines, through an administrative grievance procedure in accordance with the requirements of section 6(k), that the family has failed to comply with the requirements of the contract without good cause (which may include a loss or reduction in access to supportive services, or a change in circumstances that makes the family or individual unsuitable for participation).”.

(e) **SUPPORTIVE SERVICES.**—The first sentence of section 23(c)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437u(c)(2)) is amended by striking “to each participating family” the second place it appears.

(f) **ESCROW SAVINGS ACCOUNTS.**—Section 23(d)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437u(d)(2)) is amended in the last sentence by striking “only after” and all that follows through the end of the sentence and inserting the following: “after the family ceases to receive income assistance under Federal or State welfare programs, upon successful performance of the obligations of the family under the contract of participation entered

into by the family under subsection (c), as determined according to the specific goals and terms included in the contract, and under other circumstances in which the Secretary determines an exception for good cause is warranted. A public housing agency establishing such escrow accounts may make certain amounts in the accounts available to the participating families before full performance of the contract obligations based on compliance with, and completion of, specific interim goals included in the contract; except that any such amounts shall be used by the participating families for purposes consistent with the contracts of participation, as determined by the public housing agency.”

(g) INCENTIVES FOR PARTICIPATION.—Section 23(d) of the United States Housing Act of 1937 (42 U.S.C. 1437u(d)) is amended—

(1) by striking the subsection designation and heading and inserting the following:

“(d) INCENTIVES FOR PARTICIPATION.—”; and

(2) by adding at the end the following new paragraph:

“(3) PLAN.—Each public housing agency carrying out a local program under this section shall establish a plan to offer incentives to families to encourage families to participate in the program. The plan shall require the establishment of escrow savings accounts under paragraph (2) and may include any other incentives designed by the public housing agency.”

(h) ACTION PLAN.—Section 23(g)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437u(g)(3)) is amended—

(1) in subparagraph (F), by striking “and” at the end;

(2) in subparagraph (G), by striking the period at the end and inserting “; and”;

(3) by redesignating subparagraphs (D) through (G) (as so amended) as subparagraphs (E) through (H), respectively;

(4) by inserting after subparagraph (C) the following new subparagraph:

“(D) a description of the incentives pursuant to subsection (d) offered by the public housing agency to families to encourage participation in the program;”; and

(5) by adding at the end the following new paragraph:

“(I) assurances satisfactory to the Secretary that nonparticipating families will retain their rights to public housing or section 8 assistance notwithstanding the provisions of this section.”

(i) DEFINITIONS.—Section 23(n) of the United States Housing Act of 1937 (42 U.S.C. 1437u(n)) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively;

(2) by inserting after paragraph (2) the following new paragraph:

“(3) The term ‘eligible family’ means a family whose head of household is not elderly, disabled, pregnant, a primary caregiver for children under the age of 3, or for whom the family self-sufficiency program would otherwise be unsuitable. Notwithstanding the preceding sentence, a public housing agency may enroll such families if they choose to participate in the program.”; and

(3) by adding at the end the following new paragraph:

“(6) The term ‘vacant unit’ means a dwelling unit that has been vacant for not less than 9 consecutive months.”

(j) INDIAN HOUSING.—Section 23(o)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437u(o)(2)) is amended to read as follows:

“(2) APPLICABILITY TO INDIAN PUBLIC HOUSING AUTHORITIES.—Notwithstanding any other provision of law, the provisions of this section shall be optional for Indian housing authorities.”.

## Subtitle B—Public and Indian Housing

### SEC. 111. MAJOR RECONSTRUCTION OF OBSOLETE PROJECTS.

(a) IN GENERAL.—Section 5(j)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437c(j)(2)) is amended to read as follows:

“(2)(A) Notwithstanding any other provision of law, the Secretary may reserve not more than 20 percent of any amounts appropriated for development of public housing in each fiscal year for the substantial redesign, reconstruction, or redevelopment of existing obsolete public housing projects or buildings and for the costs of improving the management and operation of projects undergoing redesign, reconstruction, or redevelopment under this paragraph (to the extent that such improvement is necessary to maintain the physical improvements resulting from such redesign, reconstruction, or redevelopment).

“(B) For purposes of this paragraph, the term ‘obsolete public housing project or building’ means a public housing project or building (i) having design or marketability problems resulting in vacancy in more than 25 percent of the units, or (ii)(I) for which the costs for redesign, reconstruction, or redevelopment (including any costs for lead-based paint abatement activities) exceed 70 percent of the total development cost limits for new construction of similar units in the area, and (II) which has an occupancy density or a building height that is significantly in excess of that which prevails in the neighborhood in which the project is located, a bedroom configuration that could be altered to better serve the needs of families seeking occupancy to dwellings of the public housing agency, significant security problems in and around the project, or significant physical deterioration or inefficient energy and utility systems.

“(C) The Secretary shall allocate amounts reserved under this section to public housing agencies on the basis of a competition among public housing agencies applying for such amounts. The competition shall be based on—

“(i) the management capability of the public housing agency to carry out the redesign, reconstruction, or redevelopment;

“(ii) the expected term of the useful life of the project or building after redesign, reconstruction or redevelopment; and

“(iii) the likelihood of achieving full occupancy within the projects or buildings of the agency that are to be assisted under this paragraph.

“(D) The Secretary shall establish limitations on the total costs of any project or building receiving amounts under this paragraph for redesign, reconstruction, and redevelopment. The cost limitations shall not be related to the total development cost system for new development or to the cost limits for modernization and shall recognize the higher direct costs of such work.

"(E) Assistance may not be provided under this paragraph for any project or building assisted under section 14.

"(F)(i) For each fiscal year for which amounts are reserved or appropriated for the purposes of this paragraph, the Secretary shall establish performance goals to evaluate the effectiveness of the use of such amounts. The goals shall—

"(I) be designed to maximize the effectiveness of the expenditures in a quantifiable manner; and

"(II) describe the number of units to be redesigned, redeveloped, and reconstructed with such amounts and improvements in the management of projects so assisted to be accomplished with such amounts.

Reports.

"(ii) Not later than 60 days after the end of each such fiscal year, the Secretary shall submit a report to the Congress, which shall describe the performance goals established for the fiscal year, the activities carried out with such amounts, and a statement of whether the performance goals were met. If the performance goals were not met, the report shall contain—

"(I) an explanation of why the goals were not met and a description of any managerial deficiencies or legal problems that contributed to not meeting such goals;

"(II) plans and a schedule for achieving the level of performance under such performance goals;

"(III) recommendations for legislative or regulatory changes necessary to achieve the performance goals or improve performance; and

"(IV) a statement of whether the performance goals established for the fiscal year were impractical or infeasible, and, if so, the factors that contributed and resulted in establishing such impractical or infeasible goals and recommendations of actions to meet such goals, which may include changing the goals or altering or eliminating the program under this paragraph for major reconstruction of projects."

(b) MODERNIZATION AND DISPOSITION REQUIREMENTS.—

42 USC 1437l.

(1) MODERNIZATION.—Section 14(c) of the United States Housing Act of 1937 (42 U.S.C. 1437l(c)) is amended—

(A) in the matter preceding paragraph (1)—

(i) by inserting "buildings of" after "for"; and

(ii) by striking "which";

(B) in each of paragraphs (1), (2), (3), and (4), by inserting "which projects" after the paragraph designation;

(C) in paragraph (3), by striking "and" at the end;

(D) by redesignating paragraph (4) as paragraph (5);

and

(E) by inserting after paragraph (3) the following new paragraph:

"(4) which buildings are not assisted under section 5(j)(2); and".

42 USC 1437p.

(2) DEMOLITION AND DISPOSITION.—Section 18(a) of the United States Housing Act of 1937 (42 U.S.C. 1437q(a)) is amended—

(A) in paragraph (1), by striking "or" at the end;

(B) in paragraph (2), by striking the period at the end and inserting "; or"; and

(C) by adding at the end the following new paragraph:



"(3) in the case of an application proposing demolition or disposition of any portion of a public housing project, assisted at any time under section 5(j)(2)—

"(A) such assistance has not been provided for the portion of the project to be demolished or disposed within the 10-year period ending upon submission of the application; or

"(B) the property's retention is not in the best interest of the tenants or the public housing agency because of extraordinary changes in the area surrounding the project or other extraordinary circumstances of the project."

(c) REGULATIONS.—The Secretary shall issue regulations necessary to carry out the amendments made by this section as provided under section 191 of this Act.

#### SEC. 112. PUBLIC HOUSING TENANT PREFERENCES.

Section 6(c)(4)(A)(i) of the United States Housing Act of 1937 (42 U.S.C. 1437d(c)(4)(A)(i)) is amended by striking "70 percent" and inserting "50 percent".

#### SEC. 113. REFORM OF PUBLIC HOUSING MANAGEMENT.

(a) INDEPENDENT MANAGEMENT ASSESSMENT.—Section 6(j)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437d(j)(2)) is amended—

(1) by redesignating subparagraph (B) as subparagraph (C);

(2) by inserting after subparagraph (A) the following new subparagraph:

"(B)(i) Upon designating a public housing agency as troubled pursuant to subparagraph (A) and determining that an assessment under this subparagraph will not duplicate any review conducted under section 14(p), the Secretary shall provide for an on-site, independent assessment of the management of the agency.

"(ii) To the extent the Secretary deems appropriate (taking into account an agency's performance under the indicators specified under paragraph (1)), the assessment team shall also consider issues relating to the agency's resident population and physical inventory, including the extent to which (I) the agency's comprehensive plan prepared pursuant to section 14 adequately and appropriately addresses the rehabilitation needs of the agency's inventory, (II) residents of the agency are involved in and informed of significant management decisions, and (III) any projects in the agency's inventory are severely distressed and eligible for assistance pursuant to section 24.

"(iii) An independent assessment under this subparagraph shall be carried out by a team of knowledgeable individuals selected by the Secretary (referred to in this section as the 'assessment team') with expertise in public housing and real estate management. In conducting an assessment, the assessment team shall consult with the residents and with public and private entities in the jurisdiction in which the public housing is located. The assessment team shall provide to the Secretary and the public housing agency a written report, which shall contain, at a minimum, recommendations for such management improvements as are necessary to eliminate or substantially remedy existing deficiencies."; and

(3) in subparagraph (C), as so redesignated by paragraph

(1)—

Reports.

(A) by striking "agency setting forth" and inserting the following: "agency, after reviewing the report submitted pursuant to subparagraph (B) and consulting with the agency's assessment team. Such agreement shall set forth"; and

(B) by inserting before the second sentence the following new flush sentence:

"To the extent the Secretary deems appropriate (taking into account an agency's performance under the indicators specified under paragraph (1)), such agreement shall also set forth a plan for enhancing resident involvement in the management of the public housing agency."

(b) **ADDITIONAL STATUTORY REMEDIES.**—Section 6(j)(3)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437d(j)(3)(A)) is amended—

(1) in clause (i), by inserting after "agents" the first place it appears the following: "(which may be selected by existing tenants through administrative procedures established by the Secretary)";

(2) at the end of clause (ii), by striking "and";

(3) by redesignating clause (iii) as clause (iv);

(4) by inserting after clause (ii) the following new clause:

"(iii) solicit competitive proposals from other public housing agencies and private entities with experience in construction management in the eventuality that such agencies or firms may be needed to oversee implementation of assistance made available under section 14 for the housing; and"; and

(5) by adding at the end the following new flush sentence:

"Residents of a public housing agency designated as troubled pursuant to paragraph (2)(A) may petition the Secretary in writing to take 1 or more of the actions referred to in this subparagraph. The Secretary shall respond to such petitions in a timely manner with a written description of the actions, if any, the Secretary plans to take and, where applicable, the reasons why such actions differ from the course proposed by the residents."

(c) **RESOURCES.**—Section 6(j)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437d(j)(3)) is amended—

(1) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(2) by inserting after subparagraph (A) the following new subparagraph:

"(B) The Secretary may make available to receivers and other entities selected or appointed pursuant to this paragraph such assistance as is necessary to remedy the substantial deterioration of living conditions in individual public housing developments or other related emergencies that endanger the health, safety and welfare of the residents."

(d) **ANNUAL REPORTS.**—Section 6(j)(5)(E) of the United States Housing Act of 1937 (42 U.S.C. 1437d(j)(4)(E)), as so redesignated by subsection (d)(1), is amended by inserting before the semicolon the following: ", including an accounting of the authorized funds that have been expended to support such actions".

(e) **APPLICABILITY.**—

(1) **ASSESSMENT OF RESIDENT MANAGEMENT CORPORATIONS.**—Section 6(j)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437d(j)(1)) is amended—

(A) in the first sentence, by inserting "and resident management corporations" before the period;

(B) in the third sentence, by inserting "and resident management corporations" after "agencies"; and

(C) in the fourth sentence, by striking "indicators," and inserting "indicators for public housing agencies, to the extent practicable:".

(2) PROCEDURES.—Section 6(j)(2) of the United States Housing Act of 1937, as amended by subsection (a) of this section, is further amended by adding at the end the following new subparagraph:

"(D) The Secretary shall apply the provisions of this paragraph to resident management corporations as well as public housing agencies."

#### SEC. 114. PUBLIC HOUSING OPERATING SUBSIDIES.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 9(c) of the United States Housing Act of 1937 (42 U.S.C. 1437g(c)) is amended to read as follows:

"(c)(1) There are authorized to be appropriated for purposes of providing annual contributions under this section \$2,282,436,000 for fiscal year 1993 and \$2,378,298,312 for fiscal year 1994.

"(2) There are also authorized to be appropriated to provide annual contributions under this section, in addition to amounts under paragraph (1), such sums as may be necessary for each of fiscal years 1993 and 1994, to provide each public housing agency with the difference between (A) the amount provided to the agency from amounts appropriated pursuant to paragraph (1), and (B) all funds for which the agency is eligible under the performance funding system without adjustments for estimated or unrealized savings.

"(3) In addition to amounts under paragraphs (1) and (2), there are authorized to be appropriated for annual contributions under this section to provide for the costs of the adjustments to income and adjusted income under the amendments made by sections 573(b) and (c) of the Cranston-Gonzalez National Affordable Housing Act such sums as may be necessary for fiscal years 1993 and 1994."

(b) ADJUSTMENT OF PERFORMANCE FUNDING SYSTEM.—Section 9(a)(3)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437g(a)(3)(A)) is amended by inserting after the period at the end the following new sentence: "Notwithstanding sections 583(a) and 585(a) of title 5, United States Code (as added by section 3(a) of the Negotiated Rulemaking Act of 1990), any proposed regulation providing for amendment, alteration, adjustment, or other change to the performance funding system relating to vacant public housing units shall be issued pursuant to a negotiated rulemaking procedure under subchapter IV of chapter 5 of such title (as added by section 3(a) of the Negotiated Rulemaking Act of 1990), and the Secretary shall establish a negotiated rulemaking committee for development of any such proposed regulations."

(c) ENERGY SAVINGS.—Section 9(a)(3)(B)(i) of the United States Housing Act of 1937 is amended by inserting before the semicolon at the end the following: ", and in subsequent years, if the energy savings are cost-effective, the Secretary may continue the sharing arrangement with the public housing agency for a period not to exceed 6 years".

**SEC. 115. PUBLIC HOUSING VACANCY REDUCTION.**

42 USC 1437L.

(a) **FUNDING.**—Section 14(p)(5) of the United States Housing Act of 1937 (42 U.S.C. 1437l(p)(5)) is amended to read as follows:

“(5)(A) Of any amounts available under this section in each of fiscal years 1993 and 1994 (after amounts are reserved pursuant to subsection (k)(1)), an amount equal to 4 percent of such remaining funds shall be available in each such fiscal year for the purposes under subparagraph (B).

“(B) Of such amounts available under subparagraph (A) in each such fiscal year—

“(i) 20 percent shall be available only for carrying out activities under section 6(j); and

“(ii) 80 percent shall be available for carrying out this subsection.”.

(b) **SCOPE OF PROGRAM.**—Section 14(p)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437l(p)(1)) is amended—

(1) by striking “or that” and inserting “, that”; and

(2) by inserting after “6(j),” the following: “or for which a receiver has been appointed pursuant to section 6(j)(3),”.

(c) **VACANCY REDUCTION ASSISTANCE.**—Section 14(p)(4) of the United States Housing Act of 1937 (42 U.S.C. 1437l(p)(4)) is amended—

(1) in subparagraph (B), by inserting before the semicolon the following: “, except that the Secretary may provide assistance to a public housing agency designated as a troubled agency for the purposes under this subparagraph only if the Secretary determines that the agency is making substantial progress in remedying management deficiencies, if any, or that the agency has provided reasonable assurances that such progress will be made”; and

(2) in subparagraph (C), by inserting before the semicolon the following: “, except that the Secretary may provide assistance to a public housing agency designated as a troubled agency for the purposes under this subparagraph only if the Secretary determines that the agency is making substantial progress in remedying management deficiencies, if any, or that the agency has provided reasonable assurances that such progress will be made”.

(d) **AVAILABILITY OF ASSISTANCE.**—Section 14(p)(4) of the United States Housing Act of 1937 (42 U.S.C. 1437l(p)(4)) is amended by striking the first comma and all that follows through the second comma and inserting “, subject to the availability of amounts under paragraph (6),”.

(e) **USE OF AMOUNTS FOR ASSESSMENT TEAMS.**—Section 14(p)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437l(p)(3)) is amended by adding at the end the following new subparagraph:

“(D) The Secretary may use amounts made available under paragraph (6) for any travel and administrative expenses of assessment teams under this paragraph.”.

(f) **ASSESSMENT TEAM.**—The second sentence of section 14(p)(3)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437l(p)(3)(A)) is amended—

(1) by striking “and” after “Development” and inserting a comma; and

(2) by striking “who” and inserting “and officials of the public housing agency, all of whom”.

(g) **RESERVATION OF ANNUAL CONTRIBUTIONS FOR ACTIVITIES UNDER PLAN.**—Section 14(p) of the United States Housing Act of 1937 (42 U.S.C. 1437l(p)) is amended—

(1) by redesignating paragraphs (3), (4), and (5) (as amended by the preceding provisions of this section) as paragraphs (4), (5), and (6), respectively; and

(2) by inserting after paragraph (2) the following new paragraph:

“(3)(A) Upon the expiration of the 24-month period beginning upon the receipt of assistance under paragraph (5) by a public housing agency, the Secretary shall, after reviewing the progress made in complying with the plan, reserve from the annual contribution attributable to each unit vacant for the 24-month period an amount determined by the Secretary but not exceeding 80 percent of such contribution. The Secretary may not reserve any amounts under this subparagraph for any vacant dwelling unit that is vacant because of modernization, reconstruction, or lead-based paint reduction activities.

“(B) The Secretary shall deposit any amounts reserved under subparagraph (A) in a separate account established on behalf of the public housing agency, and such amounts shall be available to the agency only for the purpose of carrying out activities in compliance with the vacancy reduction plan of the agency.

“(C) If, after the expiration of the 24-month period beginning upon the reservation under subparagraph (A) of amounts for a public housing agency, the Secretary determines that the agency has not made significant progress to comply with the provisions of the vacancy reduction plan of the agency, the amount remaining in the account for the agency established under subparagraph (B) shall be recaptured by the Secretary.”.

(h) **TECHNICAL CORRECTIONS.**—Section 14(p)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437l(p)(2)) is amended—

(1) in clause (D), by striking “modernization, reconstruction” and inserting “comprehensive modernization, major reconstruction”; and

(2) in clause (E), by striking “the modernization” and inserting “the comprehensive modernization”.

#### **SEC. 116. PUBLIC HOUSING DEMOLITION AND DISPOSITION.**

(a) **COORDINATION WITH TENANTS.**—Section 18(b)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437p(b)(1)) is amended by inserting “of the project or portion of the project covered by the application” after “tenant cooperative”.

(b) **REPLACEMENT PLAN.**—Section 18(b)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437p(b)(3)) is amended—

(1) in subparagraph (A)—

(A) in clause (ii), by inserting before the semicolon at the end the following: “to the extent available; or if such assistance is not available, in the case of an application proposing demolition or disposition of 200 or more units, the use of available project-based assistance under section 8 having a term of not less than 5 years”;

(B) in clause (iii), by inserting before the semicolon at the end the following: “to the extent available; or if such assistance is not available, in the case of an application proposing demolition or disposition of 200 or more units, the use of available project-based assistance under

other Federal programs having a term of not less than 5 years"; and

(C) in clause (v), by inserting before the semicolon the following: "to the extent available; or if such assistance is not available, in the case of an application proposing demolition or disposition of 200 or more units, the use of tenant-based assistance under section 8 (excluding vouchers under section 8(o)) having a term of not less than 5 years";

(2) in subparagraph (G), by striking the period at the end and inserting a semicolon;

(3) by redesignating subparagraphs (B) through (G) as subparagraphs (C) through (H), respectively;

(4) by inserting after subparagraph (A) the following new subparagraph:

"(B) in the case of an application proposing demolition or disposition of 200 or more units, shall provide that (notwithstanding the limitation under section 8(d)(2)(A) on the amount of project-based assistance provided by an agency)—

"(i) not less than 50 percent of such additional dwelling units shall be provided through the acquisition or development of additional public housing dwelling units or through project-based assistance; and

"(ii) not more than 50 percent of such additional dwelling units shall be provided through tenant-based assistance under section 8 (excluding vouchers under section 8(o)) having a term of not less than 5 years;"; and

(5) by adding at the end the following new flush matter: "except that, in any 5-year period, a public housing agency may demolish not more than the lesser of 5 dwelling units or 5 percent of the total dwelling units owned and operated by the public housing agency, without providing an additional dwelling unit for each such public housing dwelling unit to be demolished, but only if the space occupied by the demolished unit is used for meeting the service or other needs of public housing residents."

(c) SET-ASIDES FOR REPLACEMENT HOUSING.—Section 18 of the United States Housing Act of 1937 (42 U.S.C. 1437p) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following new subsection:

"(e)(1) In each of fiscal years 1993 and 1994, the Secretary may reserve from any budget authority appropriated for such year for assistance under section 8 that is available for families not currently receiving such assistance not more than 10 percent of such budget authority for providing replacement housing under subsection (b)(3)(A) for units demolished or disposed of pursuant to this section.

"(2) In each of fiscal years 1993 and 1994, the Secretary may reserve from any budget authority appropriated for such year for development of public housing under section 5(a)(2) not more than the lesser of 30 percent of such budget authorization or \$150,000,000, for providing replacement housing under subsection (b)(3)(A) for units demolished or disposed of pursuant to this section."

(d) **YOLO COUNTY HOUSING AUTHORITY.**—The Secretary of Housing and Urban Development shall approve the application for disposition by the Yolo County Housing Authority (CA30-PO-003 and CA30-PO44-099), provided that the application states that the tenant councils, resident management corporation, and tenant cooperative, if any, shall be given appropriate opportunities to purchase the new replacement units, which shall be available and ready for occupancy before the disposition of the existing subject units. The new units shall be considered public housing for the purposes of the United States Housing Act of 1937 for which the Secretary shall provide annual contributions for operation using any amounts made available under section 9(c).

**SEC. 117. PUBLIC HOUSING RESIDENT MANAGEMENT.**

Section 20(f)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437r(f)(3)) is amended to read as follows:

“(3) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this subsection \$4,750,000 for fiscal year 1993 and \$4,949,500 for fiscal year 1994.”.

**SEC. 118. PUBLIC HOUSING HOMEOWNERSHIP.**

(a) **HOMEOWNERSHIP ASSISTANCE.**—Section 21(a)(2)(C) of the United States Housing Act of 1937 (42 U.S.C. 1437s(a)(2)(C)) is amended—

(1) in the first sentence, by striking “the effective date of the regulations implementing title III of this Act” and inserting “February 4, 1991”; and

(2) in the second sentence—

(A) by striking “effective”; and

(B) by striking “such Act” and inserting “the Cranston-Gonzalez National Affordable Housing Act”.

(b) **CONDITIONS OF PURCHASE.**—Section 21(a)(3)(C) of the United States Housing Act of 1937 (42 U.S.C. 1437s(a)(3)(C)) is amended—

(1) in the first sentence, by striking “the effective date of the regulations implementing title III of this Act” and inserting “February 4, 1991”; and

(2) in the second sentence—

(A) by striking “effective”; and

(B) by striking “such title” and inserting “the Cranston-Gonzalez National Affordable Housing Act”.

**SEC. 119. PUBLIC HOUSING FAMILY INVESTMENT CENTERS.**

Section 22(k) of the United States Housing Act of 1937 (42 U.S.C. 1437t(k)) is amended to read as follows:

“(k) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this section \$25,000,000 for fiscal year 1993 and \$26,050,000 for fiscal year 1994.”.

**SEC. 120. REVITALIZATION OF SEVERELY DISTRESSED PUBLIC HOUSING.**

Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding at the end the following new section:

42 USC 1437v.

**"SEC. 24. REVITALIZATION OF SEVERELY DISTRESSED PUBLIC HOUSING.****"(a) PROGRAM AUTHORITY.—The Secretary may make—****"(1) planning grants under subsection (c) to enable applicants to develop revitalization programs for severely distressed public housing in accordance with this section; and****"(2) implementation grants under subsection (d) to carry out revitalization programs for severely distressed public housing in accordance with this section.****"(b) DESIGNATION OF ELIGIBLE PROJECTS.—****"(1) IDENTIFICATION.—Not later than 90 days after the date of enactment of the Housing and Community Development Act of 1992, public housing agencies shall identify, in such form and manner as the Secretary may prescribe, any public housing projects that they consider to be severely distressed public housing for purposes of receiving assistance under this section.****"(2) REVIEW BY SECRETARY.—The Secretary shall review the projects identified pursuant to paragraph (1) to ascertain whether the projects are severely distressed housing (as such item is defined in subsection (h)). Not later than 180 days after the date of enactment of this section, the Secretary shall publish a list of those projects that the Secretary determines are severely distressed public housing.****"(3) APPEAL OF SECRETARY'S DETERMINATION.—The Secretary shall establish procedures for public housing agencies to appeal the Secretary's determination that a project identified by a public housing agency is not severely distressed.****"(c) PLANNING GRANTS.—****"(1) IN GENERAL.—The Secretary may make planning grants under this subsection to applicants for the purpose of developing revitalization programs for severely distressed public housing under this section.****"(2) AMOUNT.—The amount of a planning grant under this subsection may not exceed \$200,000 per project, except that the Secretary may for good cause approve a grant in a higher amount.****"(3) ELIGIBLE ACTIVITIES.—A planning grant may be used for activities to develop revitalization programs for severely distressed public housing, including—****"(A) studies of the different options for revitalization, including the feasibility, costs and neighborhood impact of such options;****"(B) providing technical or organizational support to ensure resident involvement in all phases of the planning and implementation processes;****"(C) improvements to stabilize the development, including security investments;****"(D) conducting workshops to ascertain the attitudes and concerns of the neighboring community;****"(E) preliminary architectural and engineering work;****"(F) planning for economic development, job training and self-sufficiency activities that promote the economic self-sufficiency of residents under the revitalization program;****"(G) designing a suitable replacement housing plan, in situations where partial or total demolition is considered;**



“(H) planning for necessary management improvements; and

“(I) preparation of an application for an implementation grant under this section.

“(4) APPLICATIONS.—An application for a planning grant shall be submitted in such form and in accordance with such procedures as the Secretary shall establish. The Secretary shall require that an application contain at a minimum—

“(A) a request for a planning grant, specifying the activities proposed, the schedule for completing the activities, the personnel necessary to complete the activities and the amount of the grant requested;

“(B) a description of the applicant and a statement of its qualifications;

“(C) identification and description of the project involved, and a description of the composition of the tenants, including family size and income;

“(D) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located; and

“(E) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

“(5) SELECTION CRITERIA.—The Secretary shall, by regulation, establish selection criteria for a national competition for assistance under this subsection, which shall include—

Regulations.

“(A) the qualities or potential capabilities of the applicant;

“(B) the extent of resident interest and involvement in the development of a revitalization program for the project;

“(C) the extent of involvement of local public and private entities in the development of a revitalization program for the project and in the provision of supportive services to project residents;

“(D) the potential of the applicant for developing a successful and affordable revitalization program and the suitability of the project for such a program;

“(E) national geographic diversity among housing for which applicants are selected to receive assistance;

“(F) the extent of the need for and potential impact of the revitalization program; and

“(G) such other factors that the Secretary determines are appropriate for purposes of carrying out the program established by this section in an effective and efficient manner.

“(6) NOTIFICATION.—The Secretary shall notify each applicant, not later than 6 months after the date of the submission of the application, whether the application is approved or disapproved.

“(d) IMPLEMENTATION GRANTS.—

"(1) IN GENERAL.—The Secretary may make implementation grants under this subsection to applicants for the purpose of carrying out revitalization programs for severely distressed public housing under this section.

"(2) ELIGIBLE ACTIVITIES.—Implementation grants may be used for activities to carry out revitalization programs for severely distressed public housing, including—

"(A) architectural and engineering work;

"(B) the redesign, reconstruction, or redevelopment of the severely distressed public housing development, including the site on which the development is located;

"(C) covering the administrative costs of the applicant, which may not exceed such portion of the assistance provided under this subsection as the Secretary may prescribe;

"(D) any necessary temporary relocation of tenants during the activity specified under subparagraph (B);

"(E) payment of legal fees;

"(F) economic development activities that promote the economic self-sufficiency of residents under the revitalization program;

"(G) necessary management improvements;

"(H) transitional security activities; and

"(I) any necessary support services, except that not more than 15 percent of any grant under this subsection may be used for such purpose.

"(3) APPLICATION.—An application for a implementation grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish. The Secretary shall require that an application contain at a minimum—

"(A) a request for an implementation grant, specifying the amount of the grant requested and its proposed uses;

"(B) a description of the applicant and a statement of its qualifications;

"(C) identification and description of the project involved, and a description of the composition of the tenants, including family size and income;

"(D) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located; and

"(E) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

"(4) SELECTION CRITERIA.—The Secretary shall, by regulation, establish selection criteria for a national competition for assistance under this subsection, which shall include—

"(A) the qualities or potential capabilities of the applicant;

"(B) the extent of resident involvement in the development of a revitalization program for the project;

Regulations.

"(C) the extent of involvement of local public and private entities in the development of a revitalization program for the project and in the provision of supportive services to project residents;

"(D) the potential of the applicant for developing a successful and affordable revitalization program and the suitability of the project for such a program;

"(E) national geographic diversity among housing for which applicants are selected to receive assistance;

"(F) the extent of the need for and potential impact of the revitalization program; and

"(G) such other factors that the Secretary determines are appropriate for purposes of carrying out the program established by this subtitle in an effective and efficient manner.

"(5) NOTIFICATION.—The Secretary shall notify each applicant, not later than 6 months after the date of the submission of the application, whether the application is approved or disapproved.

"(e) EXCEPTIONS TO GENERAL PROGRAM REQUIREMENTS.—

"(1) LONG-TERM VIABILITY.—The Secretary may waive or revise rules established under this title governing rents, income eligibility, and other areas of public housing management, to permit a public housing agency to undertake measures that enhance the long-term viability of a severely distressed public housing project revitalized under this section.

"(2) SELECTION OF TENANTS.—For projects revitalized under this section, a public housing agency may select tenants pursuant to a local system of preferences, in lieu of selecting tenants pursuant to the preferences specified under section 6(c)(4)(A)(i). Such local system shall be established in writing and shall respond to local housing needs and priorities as determined by the public housing agency. The public housing agency shall hold 1 or more public hearings to obtain the views of low-income tenants and other interested parties on the housing needs and priorities of the agency's jurisdiction.

"(f) OTHER PROGRAM REQUIREMENTS.—

"(1) COST LIMITATIONS.—Subject to the provisions of this section, the Secretary—

"(A) shall establish cost limitations on eligible activities under this section sufficient to provide for effective revitalization programs; and

"(B) may establish other cost limitations on eligible activities under this section.

"(2) ECONOMIC DEVELOPMENT.—Not more than an aggregate of \$250,000 from amounts made available under subsections (c) and (d) may be used for economic development activities under subsections (c) and (d) for any project, except that the Secretary may for good cause waive the applicability of this paragraph for a project.

"(g) ADMINISTRATION.—For the purpose of carrying out the revitalization of severely distressed public housing in accordance with this section, the Secretary shall establish within the Department of Housing and Urban Development an Office of Severely Distressed Public Housing Revitalization.

"(h) DEFINITIONS.—For the purposes of this section:

"(1) APPLICANT.—The term 'applicant' means—

“(A) any public housing agency that is not designated as troubled pursuant to section 6(j)(2);

“(B) any public housing agency or private housing management agent selected, or receiver appointed pursuant, to section 6(j)(3);

“(C) any public housing agency that is designated as troubled pursuant to section 6(j)(2), if such agency acts in concert with a private nonprofit organization, another public housing agency that is not designated as a troubled agency, resident management corporation or other entity approved by the Secretary; and

“(D) any public housing agency that is designated as troubled pursuant to section 6(j)(2) that—

“(i) is so designated principally for reasons that will not affect the capacity of the agency to carry out a revitalization program;

“(ii) is making substantial progress toward eliminating the deficiencies of the agency; or

“(iii) is otherwise determined by the Secretary to be capable of carrying out a revitalization program.

“(2) PRIVATE NONPROFIT CORPORATION.—The term ‘private nonprofit organization’ means any private nonprofit organization (including a State or locally chartered nonprofit organization) that—

“(A) is incorporated under State or local law;

“(B) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual;

“(C) complies with standards of financial accountability acceptable to the Secretary; and

“(D) has among its purposes significant activities related to the provision of decent housing that is affordable to very low-income families.

“(3) PUBLIC HOUSING AGENCY.—The term ‘public housing agency’ has the meaning given the term in section 3(b), except that it does not include any Indian housing authority.

“(4) RESIDENT MANAGEMENT CORPORATION.—The term ‘resident management corporation’ means a resident management corporation established in accordance with the requirements of the Secretary under section 20.

“(5) SEVERELY DISTRESSED PUBLIC HOUSING.—The term ‘severely distressed public housing’ means a public housing project—

“(A) that—

“(i) requires major redesign, reconstruction or redevelopment, or partial or total demolition, to correct serious deficiencies in the original design (including appropriately high population density), deferred maintenance, physical deterioration or obsolescence of major systems and other deficiencies in the physical plant of the project;

“(ii) is occupied predominantly by families with children who are in a severe state of distress, characterized by such factors as high rates of unemployment, teenage pregnancy, single-parent households, long-term dependency on public assistance and minimal educational achievement;

"(iii) is in a location for recurrent vandalism and criminal activity (including drug-related criminal activity); and

"(iv) cannot remedy the elements of distress specified in clauses (i) through (iii) through assistance under other programs, such as the programs under section 9 or 14, or through other administrative means; or  
 "(B) that—

"(i) is owned by a public housing agency designated as troubled pursuant to section 6(j)(2);

"(ii) has a vacancy rate, as determined by the Secretary, of 50 percent or more, unless the project or building is vacant because it is awaiting rehabilitation under a modernization program under section 14 that—

"(I) has been approved and funded; and

"(II) as determined by the Secretary, is on schedule and is expected to result in full occupancy of the project or building upon completion of the program; and

"(iii) in the case of individual buildings, the building is, in the Secretary's determination, sufficiently separable from the remainder of the project to make use of the building feasible for purposes of this subtitle.

"(i) ANNUAL REPORT.—The Secretary shall submit to the Congress an annual report setting forth—

"(1) the number, type, and cost of public housing units revitalized pursuant to this section;

"(2) the status of projects identified as severely distressed public housing pursuant to subsection (b);

"(3) the amount and type of financial assistance provided under and in conjunction with this section; and

"(4) the recommendations of the Secretary for statutory and regulatory improvements to the program established by this section."

#### SEC. 121. CHOICE IN PUBLIC HOUSING MANAGEMENT.

(a) PURPOSE.—The purpose of this section is to encourage choice in management of distressed public housing projects by residents and increased resident management of public housing projects, as a means of improving living conditions in public housing projects, by providing for resident councils and resident management corporations to transfer the management of distressed projects to alternative managers.

(b) AMENDMENT TO 1937 ACT.—Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding after section 24 (as added by section 120 of this Act) the following new section:

#### "SEC. 25. CHOICE IN PUBLIC HOUSING MANAGEMENT.

"(a) SHORT TITLE.—This section may be cited as the 'Choice in Public Housing Management Act of 1992'.

"(b) FUNDING.—

"(1) REHABILITATION AND REDEVELOPMENT GRANTS.—From amounts reserved under section 14(k)(2) for each of fiscal years 1993 and 1994, the Secretary may reserve not more than \$50,000,000 in each such fiscal year for activities under this section (which may include funding operating reserves for

42 USC 1437w  
note.

Choice in Public  
Housing  
Management  
Act of 1992.  
42 USC 1437w.

eligible housing transferred under this section). The Secretary may make grants to managers and ownership entities to rehabilitate eligible housing in accordance with this section, as appropriate.

"(2) TECHNICAL ASSISTANCE.—The Secretary may use up to 5 percent of the total amount reserved under paragraph (1) for any fiscal year to provide, by contract, technical assistance to residents of public housing and resident councils to help such residents and councils make informed choices about options for alternative management under this section.

"(c) PROGRAM AUTHORITY.—

"(1) TRANSFER OF MANAGEMENT.—

"(A) IN GENERAL.—The Secretary may approve not more than 25 applications submitted for fiscal years 1993 and 1994 by resident councils for the transfer of the management of distressed public housing projects, or one or more buildings within projects, that are owned or operated by troubled public housing agencies, from public housing agencies to alternative managers.

"(B) REQUIRED VOTES.—An application for such transfer may be submitted and approved only if a majority of the members of the board of the resident council has voted in favor of the proposed transfer of management responsibilities, and a majority of the residents has also voted in favor of the transfer in an election supervised by a disinterested third party.

"(C) ASSISTANCE OF MANAGEMENT SPECIALIST.—Any resident council seeking to transfer management of distressed public housing under this section shall, in cooperation with the public housing agency for such housing, select a qualified public housing management specialist to assist in identifying and acquiring a capable manager for the housing.

"(2) REHABILITATION AND CAPITAL IMPROVEMENTS.—The Secretary may make rehabilitation grants and provide capital improvement funding under subsection (e) in connection with the transfer of eligible housing to a manager under this section.

"(d) OPERATING SUBSIDIES.—

"(1) AUTHORITY TO PROVIDE.—The Secretary may make operating subsidies under section 9 available to managers under this section.

"(2) AMOUNT OF SUBSIDY.—The Secretary shall establish the amount of the operating subsidies made available to a manager based on the share for the housing under section 9 as determined by the Secretary.

"(3) EFFECT ON PHA GRANT.—Operating subsidies for any public housing agency transferring management under this section shall be reduced in accordance with the requirements of section 9.

"(e) REHABILITATION GRANTS AND CAPITAL IMPROVEMENT FUNDING.—

"(1) REHABILITATION GRANTS.—An application under subsection (f) may request approval of amounts set aside under subsection (b) for the rehabilitation of eligible housing. The manager and the Secretary shall enter into a contract governing the use of any such assistance provided.

"(2) ANNUAL CAPITAL IMPROVEMENT FUNDING.—

"(A) **AUTHORITY TO PROVIDE.**—The Secretary may make funding for capital improvements available annually from amounts under section 14 to managers of eligible housing. In accordance with the contract entered into pursuant to subsection (h), each manager receiving such funding shall establish a capital improvements reserve account and deposit in the account each year an amount not less than the annual amount of comprehensive grant funds it receives. Amounts in the reserve account may be used only for capital improvements and replacements.

"(B) **AMOUNT OF SUBSIDY.**—The Secretary shall establish the amount made available to a manager under paragraph (1) for capital improvements based on the share for the housing under the comprehensive grant formula and, to the extent practicable, the public housing agency's comprehensive grant plan, in accordance with section 14, as determined by the Secretary.

"(C) **LIMITATION IN THE CASE OF RECENT REHABILITATION.**—Where eligible housing has received rehabilitation funding under paragraph (1) or has otherwise been comprehensively modernized within 3 years before the effective date of the contract between the Secretary and the manager for management of the eligible housing, only the accrual portion of the comprehensive grant formula amount shall be available for payment to the manager.

"(D) **EFFECT ON PHA GRANT.**—The formula amount of a comprehensive grant for a public housing agency transferring the housing under this section shall be reduced in accordance with the requirements of section 14.

"(3) **RELATIONSHIP TO SECTION 14.**—The provisions of section 14 shall apply with respect to rehabilitation grants under paragraph (1) or capital improvement funding under paragraph (2); except that the Secretary may waive the applicability of any of the provisions of such section where such provisions are not appropriate to the assistance under this subsection.

"(F) **APPLICATION.**—

"(1) **FORM AND PROCEDURES.**—

"(A) **IN GENERAL.**—To be eligible for approval for transfer of management from a public housing agency to a manager and for a grant under subsection (e), a resident council shall submit an application to the Secretary in such form and in accordance with such procedures as the Secretary shall establish.

"(B) **PHA COMMENT ON APPLICATION.**—A resident council submitting an application shall provide the public housing agency that owns or operates the housing involved a reasonable opportunity to comment on the application, as the Secretary shall prescribe.

"(C) **PHA PROPOSAL.**—The public housing agency may present to the resident council a proposal for the continued management of the housing by the agency, and the resident council shall give reasonable consideration to any such proposal.

"(2) **MINIMUM REQUIREMENTS.**—The Secretary shall require that an application contain—

"(A) a description of the resident council and documentation of its authority;

"(B) documentation of the votes required under subsection (c)(1)(B);

"(C) a description of the proposed manager selected by the applicant (in accordance with procedures established or approved by the Secretary) and documentation of its capacity to manage the eligible housing;

"(D) a plan for carrying out the manager's responsibilities for managing the eligible housing;

"(E) documentation that the project (or building or buildings) for which management transfer is proposed is eligible housing;

"(F) documentation that each of the requirements under paragraph (1)(B) have been fulfilled;

"(G)(i) if the application includes a request for a rehabilitation grant under subsection (e) (which shall be included in any application involving eligible housing that is 50 percent or more vacant), the basis for the estimate of the amount requested, including—

"(I) the estimate of the eligible housing's need under the public housing agency's comprehensive plan (under section 14(e)(1)); and

"(II) an explanation, where appropriate, if an amount higher than the amount planned by the agency is being requested; or

"(ii) if the application does not include a request for a rehabilitation grant under subsection (e), a demonstration that needs for capital improvements and replacement for the housing can reasonably be expected to be funded from funding for capital improvements under subsection (e);

"(H) if the manager proposes to administer a program to enable residents to achieve economic independence and self-sufficiency, a description of the program and evidence of commitment of resources to the program;

"(I) an analysis showing that the planned rehabilitation will result in the long-term viability of the housing at a reasonable cost;

"(J) a certification that the manager will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing; and

"(K) such other information that the Secretary considers appropriate.

**"(g) REVIEW AND APPROVAL BY THE SECRETARY.—**

**"(1) APPLICATIONS NOT REQUESTING REHABILITATION ASSISTANCE.—**In the case of applications for the transfer of management of public housing that do not include a request for rehabilitation assistance under subsection (e), the Secretary may approve an application that meets the requirements of subsection (f)(2) and this section.

**"(2) APPLICATIONS REQUESTING REHABILITATION GRANTS.—**In the case of applications that include a request for rehabilitation assistance under subsection (e), the Secretary shall select applicants for approval based on a national competition. The Secretary shall, by regulation, establish selection criteria for the competition which provide for separate rating of applicants under this paragraph and of applicants under this section,



and for selections from a single list of all applicants. The criteria shall include—

“(A) the quality of the plan for rehabilitating the eligible housing;

“(B) the extent of the capacity or potential capacity of the proposed manager to manage the housing and to carry out the rehabilitation program;

“(C) the extent to which a program is proposed to enable residents to achieve economic independence and self-sufficiency;

“(D) the extent to which the planned rehabilitation will result in the long-term viability of the housing at a reasonable cost; and

“(E) such other criteria as the Secretary may require.

“(h) CONTRACT BETWEEN SECRETARY AND MANAGER.—

“(1) TERMS.—After the Secretary approves an application, the Secretary shall enter into a contract with the manager for transfer of management of the eligible housing. In addition to other contract provisions required under this section, the contract shall—

“(A) give the manager the right to receive operating subsidies under subsection (d) and capital improvement funding under subsection (e);

“(B) require the manager to carry out all management responsibilities for the eligible housing, as provided in or required by the contract;

“(C) require the manager to carry out, for the eligible housing, all management responsibilities applicable to public housing agencies owning or operating public housing projects, including (i) maintaining the units in decent, safe, and sanitary condition in accordance with any standards for public housing established or adopted by the Secretary, (ii) determining eligibility of applicants for occupancy of units subject to the requirements of this Act, (iii) terminating tenancy in accordance with the procedures applicable to the section 8 new construction program, and (iv) determining the amount of rent paid for units in accordance with this Act; and

“(D) permit, but not require, the manager to select applicants from the public housing waiting list maintained by the public housing agency.

“(2) EXTENSION, EXPIRATION, AND TERMINATION.—

“(A) IN GENERAL.—The Secretary shall provide for a resident council that has entered into a contract under this subsection to—

“(i) approve the renewal of the contract between the Secretary and the manager; or

“(ii) disapprove renewal and submit an application to the Secretary, in accordance with subsection (f), proposing another manager, which may be the public housing agency.

“(B) DEFAULT.—If the Secretary determines that a manager is in default of its responsibilities under the contract, the Secretary may require the resident council to submit another application proposing a different manager, which may be the public housing agency.

“(i) OTHER PROGRAM REQUIREMENTS.—

"(1) **COST LIMITATIONS.**—The Secretary may establish cost limitations on activities under this section. The amount of rehabilitation funds under subsection (e)(1) that may be approved may not exceed the per unit cost limit applicable to the comprehensive grant program under section 14.

"(2) **DEMOLITION AND DISPOSITION NOT PERMITTED.**—A manager may not demolish or dispose of eligible housing under this section.

"(3) **CAPABILITY OF RESIDENT MANAGEMENT CORPORATIONS.**—To be eligible to become a manager under this section, a resident management corporation—

"(A) shall demonstrate to the Secretary its ability to manage public housing effectively and efficiently, as determined by the Secretary, which shall include evidence of its most recent financial audit; or

"(B) shall arrange for operation of the housing by a qualified management entity.

"(4) **LIMITATIONS ON PHA LIABILITY.**—A public housing agency shall not be liable for any act or failure to act by the manager or resident council.

"(5) **BONDING AND INSURANCE.**—Before assuming any management responsibility for eligible housing, a manager shall obtain fidelity bonding and insurance, or equivalent protection, in accordance with regulations and requirements established by the Secretary. Such bonding and insurance, or its equivalent, shall be adequate to protect the Secretary and the public housing agency against loss, theft, embezzlement, or fraudulent acts on the part of the manager or its employees.

"(6) **RESTRICTION ON DISPLACEMENT BEFORE TRANSFER.**—A public housing agency may not involuntarily displace, as determined by the Secretary, any resident of eligible housing during the period beginning on the date that an application under subsection (f) is submitted by a resident council, and ending upon transfer of management of the housing or, if the application is disapproved, the date of the disapproval.

"(j) **PERFORMANCE REVIEW AND COMPLIANCE.**—

"(1) **MONITORING.**—The Secretary shall monitor the performance of managers under this section and shall assess their management performance using the performance indicators established under section 6(j)(1).

"(2) **RECORDS, REPORTS, AND AUDITS OF MANAGERS.**—

"(A) **KEEPING OF RECORDS.**—Each manager and resident council under this subtitle shall keep such records as may be reasonably necessary to disclose the amount and the disposition by the manager of the proceeds of assistance received under this section and to ensure compliance with the requirements of this section.

"(B) **ACCESS TO DOCUMENTS.**—

"(i) **SECRETARY.**—The Secretary shall have access for the purpose of audit and examination to any books, documents, papers, and records of a manager, resident council, and public housing agency that are pertinent to assistance received under, and to the requirements of, this section.

"(ii) **GAO.**—The Comptroller General of the United States, and any duly authorized representatives of the Comptroller General, shall have access for the purpose

Regulations.

of audit and examination to any books, documents, papers, and records of a manager and resident council that are pertinent to assistance received under, and to the requirements of, this section.

“(C) REPORTING REQUIREMENTS.—Each manager shall submit to the Secretary such reports as the Secretary determines appropriate to carry out the Secretary’s responsibilities under this section, including an annual financial audit.

“(D) ANNUAL REPORT.—The Secretary shall submit an annual report to the Congress evaluating management transfers under this section compared to other methods of dealing with severely distressed public housing.

“(k) NONDISCRIMINATION.—No person in the United States shall, on the grounds of race, color, national origin, religion, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this section. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 shall also apply to any such program or activity.

“(l) RELATIONSHIP TO OTHER PROGRAMS.—

“(1) HOMEOWNERSHIP.—After a transfer of management in accordance with this section, the eligible housing shall remain eligible for assistance under title III and for sale under section 5(h). Participation in a homeownership program shall be consistent with a contract between the Secretary and a manager.

“(2) SELF-SUFFICIENCY.—Where an application under subsection (f) proposes a program to enable residents to achieve economic independence and self-sufficiency, consistent with the objectives of the program under section 23, and demonstrates that the manager has the capacity to carry out a self-sufficiency program, the Secretary may approve such a program. Where such a program is approved, the Secretary shall authorize the manager to adopt policies consistent with section 23(d) (relating to maximum rents and escrow savings accounts) and section 23(e) (relating to effect of increases in family income).

“(m) DEFINITIONS.—For purposes of this section:

“(1) The term ‘eligible housing’ means a public housing project, or one or more buildings within a project, that—

“(A) is owned or operated by a troubled public housing agency; and

“(B) has been identified as severely distressed under section 24 of this Act.

In the case of an individual building, the building shall, in the determination of the Secretary, be sufficiently separable from the remainder of the project to make use of the building feasible for purposes of this section.

“(2) The term ‘manager’ means one of the following entities that has entered into a contract with the Secretary for the management of eligible housing under this section:

“(A) A public or private nonprofit organization (including, as determined by the Secretary, such an organization sponsored by the public housing agency).

"(B) A for-profit entity, if it has (i) demonstrated experience in providing low-income housing, and (ii) is participating in joint venture with an organization described in paragraph (3).

"(C) A State or local government, including an agency or instrumentality thereof.

"(D) A public housing agency (other than the public housing agency that owns the project).

The term does not include a resident council.

"(3) The term 'private nonprofit organization' means any private nonprofit organization (including a State or locally chartered nonprofit organization) that—

"(A) is incorporated under State or local law;

"(B) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual;

"(C) complies with standards of financial accountability acceptable to the Secretary; and

"(D) has among its purposes significant activities related to the provision of decent housing that is affordable to low-income families.

The term includes resident management corporations.

"(4) The term 'public housing agency' has the meaning given such term in section 3(b), except that it does not include Indian housing authorities.

"(5) The term 'public nonprofit organization' means any public nonprofit entity, except the public housing agency that owns the eligible housing.

"(6) The term 'resident council' means any nonprofit organization or association that—

"(A) is representative of the residents of the eligible housing;

"(B) adopts written procedures providing for the election of officers on a regular basis; and

"(C) has a democratically elected governing board, elected by the residents of the eligible housing.

"(7) The term 'resident management corporation' means a resident management corporation established in accordance with the requirements of the Secretary under section 20.

"(8) The term 'troubled public housing agency' means a public housing agency with 250 or more units that—

"(A) has been designated as a troubled public housing agency for the current Federal fiscal year, and for the 2 preceding Federal fiscal years—

"(i) under section 6(j)(2)(A)(i); or

"(ii) before the implementation of such authority, under any other procedure for designating troubled public housing agencies that was used by the Secretary and is determined by the Secretary to be appropriate for purposes of this section; and

"(B) has not met targets for improved performance under section 6(j)(2)(C)."

## SEC. 122. ASSISTED HOUSING FOR INDIANS AND ALASKA NATIVES.

(a) EXEMPTION FROM NEW CONSTRUCTION LIMITATION.—Section 201(c) of the United States Housing Act of 1937 (42 U.S.C. 1437aa(c)) is amended by inserting before the period at the end the following: "or section 6(h) of the United States Housing Act

of 1937 (relating to a limitation on contracts involving new construction)."

(b) **MODERNIZATION.**—Section 202(b)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437bb(b)(2)) is amended by striking "single" in the second sentence.

(c) **PAYMENTS TO MUNICIPALITIES.**—Section 203(b) of the United States Housing Act of 1937 (42 U.S.C. 1437cc(b)) is amended by adding at the end the following new sentence: "Notwithstanding any other provision of this Act, the Secretary shall make annual payments from funds appropriated under section 9(c) to municipalities providing such roads, facilities, and systems in a amount equal to—

"(1) 10 percent of the applicable shelter rent, minus the utility allowance; or

"(2) \$150,

whichever is greater, for each rental housing unit covered by this subsection."

#### **SEC. 123. PUBLIC HOUSING EARLY CHILDHOOD DEVELOPMENT SERVICES.**

Section 222(g) of the Housing and Urban-Rural Recovery Act of 1983 (12 U.S.C. 1701z-6 note) is amended to read as follows:

"(g) **AUTHORIZATION OF APPROPRIATIONS.**—To the extent provided in appropriation Acts, of any amounts appropriated for fiscal year 1993 under section 103 of the Housing and Community Development Act of 1974, \$5,000,000 shall be available to carry out this section. To the extent approved in appropriation Acts, of any amounts appropriated for fiscal year 1994 under section 5(c) of the United States Housing Act of 1937 for grants for the development of public housing, \$5,210,000 shall be available to carry out this section. Any such amounts shall remain available until expended."

#### **SEC. 124. INDIAN HOUSING CHILDHOOD DEVELOPMENT SERVICES.**

(a) **FUNDING.**—Section 518(a) of the Cranston-Gonzalez National Affordable Housing Act (12 U.S.C. 1701z-6 note) is amended by striking the subsection designation and all that follows through the end of the first sentence and inserting the following:

"(a) **FUNDING.**—To the extent provided in appropriation Acts, of any amounts appropriated under section 5(c) of the United States Housing Act of 1937 for fiscal year 1993 for public housing grants for Indian housing, \$5,200,000 may be used to carry out the demonstration program under this section. To the extent provided in appropriation Acts, of any amounts appropriated under section 5(c) of the United States Housing Act of 1937 for fiscal year 1994 for public housing grants for Indian housing, \$5,418,400 may be used to carry out the demonstration program under this section."

(b) **ELIGIBLE RECIPIENTS.**—The second sentence of section 518(a) of the Cranston-Gonzalez National Affordable Housing Act (12 U.S.C. 1701z-6 note) is amended—

(1) by inserting ", Indian housing authorities, and Indian tribes" after "nonprofit organizations"; and

(2) by inserting ", housing authorities, and tribes" after "such organizations".

**SEC. 125. PUBLIC HOUSING ONE-STOP PERINATAL SERVICES DEMONSTRATION.**

Section 521(g) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437t note) is amended to read as follows:

“(g) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated for carrying out the demonstration program under this section \$200,000 for fiscal year 1993 and \$208,400 for fiscal year 1994.”

**SEC. 126. PUBLIC HOUSING YOUTH SPORTS PROGRAMS.**

(a) **FUNDING FROM PUBLIC AND ASSISTED HOUSING DRUG ELIMINATION FUNDS.**—Section 5130 of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11909) is amended by adding at the end the following new subsection:

“(c) **SET-ASIDE FOR YOUTH SPORTS PROGRAMS.**—Of any amount made available in any fiscal year to carry out this chapter, 5 percent of such amount shall be available for public housing youth sports program grants under section 520 of the Cranston-Gonzalez National Affordable Housing Act for such fiscal year.”

(b) **ELIGIBILITY OF INSTITUTIONS OF HIGHER LEARNING.**—

(1) **IN GENERAL.**—Section 520(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 11903a(b)) is amended—

(A) in paragraph (6), by striking “and” at the end;

(B) in paragraph (7), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following new paragraph:

“(8) institutions of higher learning that have never participated in a youth sports program assisted under this section.”

(2) **TRANSPORTATION COSTS AS ELIGIBLE EXPENSE.**—Section 520(d) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 11903a(d)) is amended by adding at the end the following new paragraph:

“(4) In the case only of an eligible entity described in subsection (b)(8), any transportation costs in connection with the program.”

Florida.

(c) **DEMONSTRATION PROGRAM.**—Of any amounts made available in fiscal year 1993 for carrying out section 520 of the Cranston-Gonzalez National Affordable Housing Act, the Secretary of Housing and Urban Development shall provide not more than \$500,000 for the program known as the “Success Through Academic and Recreational Support” program, administered by the City of Fort Myers, Florida, to demonstrate the effectiveness of programs that use trained counselors to run sports and academic activities for at-risk children, including children of low-income families residing in public housing. The grantee shall comply with all applicable program requirements under subsections (c), (d), (e), and (h) of such section. The Secretary shall evaluate the advantages of the program assisted under this subsection and determine how the program may provide a model for other cities conducting, or interested in conducting, similar activities.

**SEC. 127. NATIONAL COMMISSION ON DISTRESSED PUBLIC HOUSING.**

(a) **TERMINATION.**—Section 507 of the Department of Housing and Urban Development Reform Act of 1989 (12 U.S.C. 1715z-1a note) is amended by striking “upon the expiration of 18 months

following the appointment of all the members under section 503(a)" and inserting "at the end of September 30, 1992".

(b) **AUDIT.**—Not later than December 30, 1992, the Comptroller General of the United States shall conduct an audit of the financial transactions of the National Commission on Distressed Public Housing to determine the use of any amounts received by the Commission from the Federal Government before October 1, 1992, and shall submit a report to the Congress regarding the results of the audit. The Comptroller General and any duly authorized representatives of the Comptroller General shall have access to, and the right to examine and copy, all records and other recorded information in any form, and to examine any property, within the possession and control of the Commission that the Comptroller General considers relevant to the audit. Reports.

**SEC. 128. NATIONAL COMMISSION ON AMERICAN INDIAN, ALASKA NATIVE, AND NATIVE HAWAIIAN HOUSING.**

(a) **AUTHORIZATION OF APPROPRIATIONS.**—The first sentence of section 605 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 1437aa note) is amended to read as follows: "There is authorized to be appropriated to carry out this title \$500,000 for fiscal year 1993."

(b) **EXTENSION OF TERMINATION DATE.**—Section 602(g) of the Department of Housing and Urban Development Reform Act of 1989 (12 U.S.C. 1437aa note) is amended by striking "upon the expiration of 18 months after all members of the Commission are appointed under paragraph (1)" and inserting "on October 1, 1993". 42 USC 1437aa note.

**SEC. 129. RENTAL ASSISTANCE FRAUD RECOVERIES.**

(a) **IN GENERAL.**—Section 326(d) of the Housing and Community Development Amendments of 1981 (42 U.S.C. 1437f note) is amended to read as follows:

"(d) **RENTAL ASSISTANCE FRAUD RECOVERIES.**—

"(1) **AUTHORITY TO RETAIN RECOVERED AMOUNTS.**—The Secretary of Housing and Urban Development shall permit public housing agencies administering the housing assistance payments program under section 8 of the United States Housing Act of 1937 to retain, out of amounts obtained by the agencies from tenants that are due as a result of fraud and abuse, an amount (determined in accordance with regulations issued by the Secretary) equal to the greater of—

"(A) 50 percent of the amount actually collected, or

"(B) the actual, reasonable, and necessary expenses related to the collection, including costs of investigation, legal fees, and collection agency fees.

"(2) **USE.**—Amounts retained by an agency shall be made available for use in support of the affected program or project, in accordance with regulations issued by the Secretary. Where the Secretary is the principal party initiating or sustaining an action to recover amounts from families or owners, the provisions of this section shall not apply.

"(3) **RECOVERY.**—Amounts may be recovered under this paragraph—

"(A) by an agency through a lawsuit (including settlement of the lawsuit) brought by the agency or through court-ordered restitution pursuant to a criminal proceeding resulting from an agency's investigation where the agency

seeks prosecution of a family or where an agency seeks prosecution of an owner; or

“(B) through administrative repayment agreements with a family or owner entered into as a result of an administrative grievance procedure conducted by an impartial decisionmaker in accordance with section 6(k) of the United States Housing Act of 1937.”

42 USC 1437f  
note.

(b) **EFFECTIVE DATE.**—Subsection (a) shall apply with respect to actions by public housing agencies initiated on or after the date of the enactment of this Act.

#### **SEC. 130. PROJECT-BASED ACCOUNTING.**

Section 502(c)(2) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437d note) is amended by inserting before the period the following: “for public housing agencies with 500 or more units and not later than January 1, 1994 for public housing agencies with less than 500 units.

#### **SEC. 131. SALE OF CERTAIN SCATTERED-SITE HOUSING.**

The Secretary of Housing and Urban Development shall authorize the Delaware State Housing Authority in the State of Delaware to sell scattered-site public housing of the Authority under the provisions of section 5(h) of the United States Housing Act of 1937. Any proceeds from the disposition of such housing shall be used to purchase replacement scattered-site dwellings, which shall be considered public housing for the purposes of such Act and for which the Secretary shall provide annual contributions for operation, using amounts made available under section 9(c) of such Act.

#### **SEC. 132. HOMEOWNERSHIP DEMONSTRATION PROGRAM IN OMAHA, NEBRASKA.**

(a) **ESTABLISHMENT.**—The Secretary shall carry out a program to facilitate self-sufficiency and homeownership of single-family homes administered by the Housing Authority of the city of Omaha, in the State of Nebraska (in this section referred to as the “Housing Authority”), to demonstrate the effectiveness of promoting homeownership and providing support services.

(b) **PARTICIPATING PUBLIC HOUSING UNITS.**—For purposes of the demonstration program, the Secretary shall authorize the Housing Authority to designate single-family housing units for eventual homeownership. Over the term of the demonstration, the demonstration program may be applied to not more than 20 percent of the total number of public housing units administered by the Housing Authority. In conducting the demonstration, the Housing Authority shall affirmatively further fair housing objectives.

(c) **NONDISPLACEMENT.**—No person who is a tenant of public housing may be involuntarily relocated or displaced as a result of the demonstration program.

(d) **ECONOMIC SELF-SUFFICIENCY.**—

(1) **ESTABLISHMENT OF PARTICIPATION CRITERIA.**—The Housing Authority shall establish criteria for the participation of families in the demonstration program. Such criteria shall be based on factors that may reasonably be expected to predict a family's ability to succeed in the homeownership program established by this section.

(2) **CONTENTS OF PARTICIPATION CRITERIA.**—The criteria referred to in paragraph (1) shall include evidence of interest



by the family in homeownership, the employment status and history of employment of family members, and maintenance by the family of the family's previous dwelling.

(e) **PROVISION OF SUPPORTIVE SERVICES.**—The Housing Authority shall ensure the availability of supportive services to each family participating in the demonstration program through its own resources and through coordination with Federal, State, and local agencies and private entities. Supportive services available under the demonstration program may include counseling, remedial education, education for completion of high school, job training and preparation, financial counseling emphasizing planning for homeownership, and any other appropriate services.

(f) **REPORTS TO CONGRESS.**—

(1) **BIENNIAL REPORT.**—Upon the expiration of the 2-year period beginning on the date of enactment of this Act, and each 2-year period thereafter, the Secretary of Housing and Urban Development shall submit to the Congress a report evaluating the effectiveness of the demonstration program established under this section.

(2) **FINAL REPORT.**—Not later than 60 days after termination of the demonstration program pursuant to subsection (h), the Secretary shall submit to the Congress a final report evaluating the effectiveness of the demonstration program.

(g) **REGULATIONS.**—Not later than the expiration of the 90-day period beginning on the date of the enactment of this Act, the Secretary shall issue interim regulations to carry out this section, which shall take effect upon issuance. The Secretary shall issue final regulations to carry out this subtitle after notice and opportunity for public comment regarding the interim regulations, pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section). The duration of the period for public comment shall not be less than 60 days, and the final regulations shall be issued not later than the expiration of the 60-day period beginning upon the conclusion of the comment period and shall take effect upon issuance.

(h) **TERMINATION.**—The demonstration program established under this section shall terminate 10 years after the date of the enactment of this Act.

## Subtitle C—Section 8 Assistance

### SEC. 141. ELIGIBILITY OF LOW-INCOME FAMILIES TO RECEIVE RENTAL ASSISTANCE.

(a) **CERTIFICATES.**—The first sentence of section 8(c)(4) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(4)) is amended by inserting before the first comma the following: “or by a family that qualifies to receive assistance under subsection (b) pursuant to section 223 or 226 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990”.

(b) **VOUCHERS.**—Section 8(o)(3)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(3)(A)) is amended—

(1) by striking “or” at the end of clause (iii); and

(2) by inserting before the period the following: “, or (v) a family that qualifies to receive a voucher under section 223

or 226 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990”.

**SEC. 142. CONTRACT ADJUSTMENTS FOR EXPIRATION OF PROPERTY TAX EXEMPTION.**

Section 8(c)(2)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(B)) is amended by inserting after the first sentence the following new sentence: “The Secretary shall make additional adjustments in the maximum monthly rent for units under contract (subject to the availability of appropriations for contract amendments) to the extent the Secretary determines such adjustments are necessary to reflect increases in the actual and necessary expenses of owning and maintaining the units that have resulted from the expiration of a real property tax exemption.”.

**SEC. 143. TERMINATION OF CONTRACTS.**

The last sentence of section 8(c)(9) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(9)) is amended by inserting before the period at the end the following: “, and such term shall include termination of the contract for business reasons”.

**SEC. 144. PREFERENCES FOR VETERANS WITH DISABILITIES THAT PREVENT USE OF HOME.**

(a) **CERTIFICATES.**—Section 8(d)(1)(A)(ii) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(1)(A)(ii)) is amended—

(1) by striking “(V)” and inserting “(VI)”; and

(2) by inserting after “adoption is not available;” the following: “(V) assisting veterans who are eligible and have applied for assistance, will use the assistance for a dwelling unit designed for the handicapped, and, upon discharge or eligibility for discharge from a hospital or nursing home, have physical disability which, because of the configuration of their homes, prevents them from access to or use of their homes;”.

(b) **VOUCHERS.**—The third sentence of section 8(o)(3)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(3)(B)) is amended—

(1) by striking “(v)” and inserting “(vi)”; and

(2) by inserting after “adoption is not available;” the following: “(v) assisting veterans who are eligible and have applied for assistance, will use the assistance for a dwelling unit designed for the handicapped, and, upon discharge or eligibility for discharge from a hospital or nursing home, have physical disability which, because of the configuration of their homes, prevents them from access to or use of their homes;”.

**SEC. 145. TERMINATION OF TENANCY FOR CRIMINAL ACTIVITY.**

Section 8(d)(1)(B)(iii) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(1)(B)(iii)) is amended—

(1) by inserting “, any criminal activity that threatens the health, safety, or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises,” before “or any drug-related”; and

(2) by striking “public housing tenant” and inserting “tenant of any unit”.

**SEC. 146. DEFINITIONS OF "PROJECT-BASED ASSISTANCE" AND "TENANT-BASED ASSISTANCE".**

Section 8(f) of the United States Housing Act of 1937 (42 U.S.C. 1437f(f)) is amended—

- (1) in paragraph (4), by striking "and" at the end;
- (2) in paragraph (5), by striking the period at the end and inserting a semicolon; and
- (3) by adding at the end the following new paragraphs:  
"(6) the term 'project-based assistance' means rental assistance under subsection (b) that is attached to the structure pursuant to subsection (d)(2); and  
"(7) the term 'tenant-based assistance' means rental assistance under subsection (b) or (c) that is not project-based assistance."

**SEC. 147. PORTABILITY.**

Section 8(r)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437f(r)) is amended by inserting before the period at the end the following: "; except that any family not living within the jurisdiction of a public housing agency at the time that such family applies for assistance from such agency shall, during the 12-month period beginning upon the receipt of any tenant-based rental assistance made available on behalf of the family, use such assistance to rent an eligible dwelling unit located within the jurisdiction served by such public housing agency".

**SEC. 148. FAMILY UNIFICATION ASSISTANCE.**

Section 8(x)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437f(x)(1)) is amended to read as follows:

- "(1) INCREASE IN BUDGET AUTHORITY.—The budget authority available under section 5(c) for assistance under section 8(b) is authorized to be increased by \$100,000,000 on or after October 1, 1992, and by \$104,200,000 on or after October 1, 1993."

**SEC. 149. IMPLEMENTATION OF AMENDMENTS TO PROJECT-BASED CERTIFICATE PROGRAM.**

The Secretary of Housing and Urban Development shall issue any final regulations necessary to carry out the amendments made by section 547 of the Cranston-Gonzalez National Affordable Housing Act not later than the expiration of the 180-day period beginning on the date of the enactment of this Act. The regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section) and shall take effect upon the expiration of the 30-day period beginning upon issuance.

Regulations.  
42 USC 1437f  
note.

**SEC. 150. EFFECTIVENESS OF SECTION 8 ASSISTANCE FOR PHASED OWNED UNITS.**

42 USC 1437f  
note.

The amendments made by section 548 of the Cranston-Gonzalez National Affordable Housing Act shall be effective notwithstanding the absence of any regulations issued by the Secretary of Housing and Urban Development.

Regulations.  
42 USC 1437f  
note.

**SEC. 151. IMPLEMENTATION OF INCOME ELIGIBILITY PROVISIONS FOR SECTION 8 NEW CONSTRUCTION UNITS.**

The Secretary of Housing and Urban Development shall issue any final regulations necessary to carry out the provisions of section 555 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437f note) not later than the expiration of the 180-day period beginning on the date of the enactment of this Act. The regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section) and shall take effect upon the expiration of the 30-day period beginning upon issuance.

42 USC 1437f  
note.

**SEC. 152. MOVING TO OPPORTUNITY FOR FAIR HOUSING.**

(a) **AUTHORITY.**—Using any amounts available under subsection (e), the Secretary of Housing and Urban Development shall carry out a demonstration program to provide tenant-based assistance under section 8 of the United States Housing Act of 1937 to assist very low-income families with children who reside in public housing or housing receiving project-based assistance under section 8 of the United States Housing Act of 1937 to move out of areas with high concentrations of persons living in poverty to areas with low concentrations of such persons. The demonstration program carried out under this section shall compare and contrast the costs associated with implementing such a program (including the costs of counseling, supportive services, housing assistance payments and other relevant program elements) with the costs associated with the routine implementation of the section 8 tenant-based rental assistance programs. The Secretary shall enter into annual contributions contracts with public housing agencies to administer housing assistance payments contracts under the demonstration.

Contracts.

**(b) ELIGIBLE CITIES.**—

(1) **IN GENERAL.**—The Secretary shall carry out the demonstration only in cities with populations exceeding 350,000 that are located in consolidated metropolitan statistical areas (as designated by the Director of the Office of Management and Budget) having populations exceeding 1,500,000.

(2) **1993.**—Notwithstanding paragraph (1), in fiscal year 1993, only the 5 cities selected for the demonstration under the item relating to "HOUSING PROGRAMS—ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING (INCLUDING RESCISSION OF FUNDS)" of title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992 (105 Stat. 745), and the City of Los Angeles, California, shall be eligible for the demonstration under this section.

Contracts.

(c) **SERVICES.**—The Secretary shall enter into contracts with nonprofit organizations to provide counseling and services in connection with the demonstration.

**(d) REPORTS.**—

(1) **BIENNIAL.**—Not later than the expiration of the 2-year period beginning on the date of the enactment of this Act (and biennially thereafter), the Secretary shall submit interim reports to the Congress evaluating the effectiveness of the demonstration program under this section. The interim reports shall include a statement of the number of persons served, the level of counseling and the types of services provided,

the cost of providing such counseling and services, updates on the employment record of families assisted under the program, and any other information the Secretary considers appropriate in evaluating the demonstration.

(2) **FINAL.**—Not later than September 30, 2004, the Secretary shall submit a final report to the Congress describing the long-term housing, employment, and educational achievements of the families assisted under the demonstration program. Such report shall also contain an assessment of such achievements for a comparable population of section 8 recipients who have not received assistance under the demonstration program.

(e) **FUNDING.**—The budget authority available under section 5(c) of the United States Housing Act of 1937 for tenant-based assistance under section 8 of such Act is authorized to be increased by \$50,000,000, on or after October 1, 1992, and by \$52,100,000, on or after October 1, 1993, to carry out the demonstration under this section. Any amounts made available under this paragraph shall be used in connection with the demonstration under this section.

(f) **IMPLEMENTATION.**—The Secretary may, by notice published in the Federal Register, establish any requirements necessary to carry out the demonstration under this section and the amendment made by this section. The Secretary shall publish such notice not later than the expiration of the 90-day period beginning on the date of the enactment of this Act and shall submit a copy of such notice to the Congress not less than 15 days before publication.

Federal  
Register,  
publication.

**SEC. 153. DIRECTIVE TO FURTHER FAIR HOUSING OBJECTIVES UNDER CERTIFICATE AND VOUCHER PROGRAMS.**

42 USC 1437f  
note.

Not later than 2 years after the date of the enactment of this Act, the Secretary of Housing and Urban Development, in consultation with individuals representing fair housing organizations, low-income tenants, public housing agencies, and other interested parties, shall—

(1) review and comment upon the study prepared by the Comptroller General of the United States pursuant to section 558(3) of the Cranston-Gonzalez National Affordable Housing Act;

(2) evaluate the implementation and effects of existing demonstration and judicially mandated programs that help minority families receiving section 8 certificates and vouchers move out of areas with high concentrations of minority persons living in poverty to areas with low concentrations, including how such programs differ from the routine implementation of the section 8 certificate and voucher programs;

(3) independently assess factors (including the adequacy of section 8 fair market rentals, the level of counseling provided by public housing agencies, the existence of racial and ethnic discrimination by landlords) that may impede the geographic dispersion of families receiving section 8 certificates and vouchers;

(4) identify and implement any administrative revisions that would enhance geographic dispersion and tenant choice and incorporate the positive elements of various demonstration and judicially mandated mobility programs; and

## Reports.

(5) submit to the Congress a report describing its findings under paragraphs (1), (2), and (3), the actions taken under paragraph (4), and any recommendations for additional demonstration, research, or legislative action.

**SEC. 154. HOUSING ASSISTANCE IN JEFFERSON COUNTY, TEXAS.**

Section 213(e) of the Housing and Community Development Act of 1974 (42 U.S.C. 1439(e)) is amended by striking "the Park Central New Community Project or in adjacent areas that are recognized by the unit of general local government in which such Project is located as being included within the Park Central New Town in Town Project." and inserting "Jefferson County, Texas."

**SEC. 155. COMPLIANCE OF CERTAIN ACTIVITIES WITH LIMITATIONS ON PROJECT-BASED ASSISTANCE.**

Rehabilitation activities undertaken by the Committee for Dignity and Fairness for the Homeless Housing Development, Inc. in connection with 46 dwelling units that were renovated for permanent housing for the homeless and that are located in Philadelphia, Pennsylvania, are hereby deemed to have been conducted pursuant to an agreement with the Secretary of Housing and Urban Development under clause (ii) of the third sentence of section 8(d)(2)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(2)(A)).

## Subtitle D—Other Programs

**SEC. 161. PUBLIC AND ASSISTED HOUSING DRUG ELIMINATION.**

(a) **AUTHORIZATION OF APPROPRIATIONS.**—The first sentence of section 5130(a) of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11909(a)) is amended to read as follows: "There are authorized to be appropriated to carry out this chapter \$175,000,000 for fiscal year 1993 and \$182,350,000 for fiscal year 1994."

(b) **FISCAL YEAR 1993 SET-ASIDES.**—Section 5130(b) of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11909(b)) is amended—

(1) by striking "SET-ASIDE FOR ASSISTED HOUSING" and inserting "SET-ASIDES"; and

(2) by inserting after the period at the end the following new sentence: "Notwithstanding any other provision of law, of any amounts appropriated for drug elimination grants under this chapter for fiscal years 1993 and 1994, not more than 6.25 percent shall be available for grants for federally assisted low-income housing and 5.0 percent shall be available for public housing youth sports program grants under section 520 of the Cranston-Gonzalez National Affordable Housing Act."

(c) **DRUG-RELATED ACTIVITY IN OTHER PHA-OWNED HOUSING.**—Section 5124 of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11903) is amended—

(1) by inserting "(a) PUBLIC AND ASSISTED HOUSING.—" before "Grants"; and

(2) by adding at the end the following new subsection:

"(b) **OTHER PHA-OWNED HOUSING.**—Notwithstanding any other provision of this chapter, grants under this chapter may be used to eliminate drug-related crime in housing owned by public housing agencies that is not public housing assisted under the United States Housing Act of 1937 and is not otherwise federally assisted, for the activities described in paragraphs (1) through (7) of subsection (a), but only if—

"(1) the housing is located in a high intensity drug trafficking area designated pursuant to section 1005 of this Act; and

"(2) the public housing agency owning the housing demonstrates, to the satisfaction of the Secretary, that drug-related activity at the housing has a detrimental effect on or about the real property comprising any public or other federally assisted low-income housing."

(d) ELIGIBILITY OF PUBLIC HOUSING RESIDENT MANAGEMENT CORPORATIONS.—Chapter 2 of subtitle C of title 5 of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11901 et seq.) is amended—

(1) in section 5123, by inserting after "(including Indian Housing Authorities)" the following: ", public housing resident management corporations that are principally managing, as determined by the Secretary, public housing projects owned by public housing agencies,";

42 USC 11902.

(2) in paragraph (7) of section 5124(a) (as so designated by subsection (c) of this section), by inserting after "(7)" the following: "where a public housing agency receives a grant,"; and

42 USC 11903.

(3) in the first sentence of section 5125(a), by inserting after "public housing agency" the following: ", a public housing resident management corporation,".

42 USC 11904.

(e) PUBLICATION OF REGULATIONS.—Not later than 30 days after the date of the enactment of this Act, the Secretary shall publish such final regulations as may be necessary to implement section 5130(b) of the Public and Assisted Housing Drug Elimination Act of 1990 (42 U.S.C. 11909(a)).

42 USC 11909 note.

#### SEC. 162. HOUSING COUNSELING.

(a) COUNSELING SERVICES.—The first sentence of section 106(a)(3) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(a)(3)) is amended by striking "except that" and all that follows through the period and inserting "except that for such purposes there are authorized to be appropriated \$6,025,000 for fiscal year 1993 and \$6,278,050 for fiscal year 1994. Of the amounts appropriated for each of fiscal years 1993 and 1994, up to \$500,000 shall be available for use for counseling and other activities in connection with the demonstration program under section 152 of the Housing and Community Development Act of 1992."

(b) EMERGENCY HOMEOWNERSHIP COUNSELING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—The first sentence of section 106(c)(8) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(8)) is amended to read as follows: "There are authorized to be appropriated to carry out this section \$7,000,000 for fiscal year 1993 and \$7,294,000 for fiscal year 1994, of which amounts \$1,000,000 shall be available in each such fiscal year to carry out paragraph (5)(D)."

(2) EXTENSION OF PROGRAM.—Section 106(c)(9) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(9)) is amended by striking "September 30, 1992" and inserting "September 30, 1994".

(3) AVAILABILITY.—Section 106(c)(3)(A) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(3)(A)) is amended—

(A) in clause (i), by striking "and" at the end; and

(B) by adding at the end the following new clause:

“(iii) have a high incidence of mortgages involving principal obligations (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in excess of 97 percent of the appraised value of the properties that are insured pursuant to section 203 of the National Housing Act; and”.

(4) **ELIGIBILITY.**—Section 106(c)(4) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(4)) is amended by adding at the end the following new flush sentence: “An applicant for a mortgage shall be eligible for homeownership counseling under this subsection if the applicant is a first-time homebuyer who meets the requirements of section 303(b)(1) of the Cranston-Gonzalez National Affordable Housing Act and the mortgage involves a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in excess of 97 percent of the appraised value of the property and is to be insured pursuant to section 203 of the National Housing Act.”.

(5) **NOTIFICATION OF AVAILABILITY.**—Section 106(c)(5)(A) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(5)(A)) is amended by striking subparagraph (A) and inserting the following new subparagraph:

“(A) **NOTIFICATION OF AVAILABILITY OF HOMEOWNERSHIP COUNSELING.**—

“(i) **REQUIREMENT.**—Except as provided in subparagraph (C), the creditor of a loan (or proposed creditor) shall provide notice under clause (ii) to (I) any eligible homeowner who fails to pay any amount by the date the amount is due under a home loan, and (II) any applicant for a mortgage described in paragraph (4).

“(ii) **CONTENT.**—Notification under this subparagraph shall—

“(I) notify the homeowner or mortgage applicant of the availability of any homeownership counseling offered by the creditor (or proposed creditor);

“(II) if provided to an eligible mortgage applicant, state that completion of a counseling program is required for insurance pursuant to section 203 of the National Housing Act; and

“(III) notify the homeowner or mortgage applicant of the availability of homeownership counseling provided by nonprofit organizations approved by the Secretary and experienced in the provision of homeownership counseling, or provide the toll-free telephone number described in subparagraph (D)(i).”.

(6) **ANNUAL UPDATE OF LIST OF COUNSELING ORGANIZATIONS FOR TOLL-FREE NUMBER.**—The matter preceding subclause (I) in section 106(c)(5)(D)(i) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(5)(D)(i)) is amended by inserting “, which shall be updated annually,” after “organizations”.

(c) **PREPURCHASE AND FORECLOSURE-PREVENTION COUNSELING DEMONSTRATION.**—Section 106(d)(12) of the Housing and Urban



Development Act of 1968 (12 U.S.C. 1701x(d)(12)) is amended to read as follows:

"(12) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection \$365,000 for fiscal year 1993 and \$380,330 for fiscal year 1994."

(d) ELIGIBILITY FOR COUNSELING ASSISTANCE UNDER HOUSING AND URBAN DEVELOPMENT ACT OF 1968 AND CERTIFICATION AND TRAINING PROGRAM.—Section 106 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x) is amended by adding at the end the following new subsections:

"(e) CERTIFICATION.—

"(1) REQUIREMENT FOR ASSISTANCE.—An organization may not receive assistance for counseling activities under subsection (a)(1)(iii), (a)(2), (c), or (d), unless the organization provides such counseling, to the extent practicable, by individuals who have been certified by the Secretary under this subsection as competent to provide such counseling.

"(2) STANDARDS AND EXAMINATION.—The Secretary shall, by regulation, establish standards and procedures for testing and certifying counselors. Such standards and procedures shall require for certification that the individual shall demonstrate, by written examination (as provided under subsection (f)(4)), competence to provide counseling in each of the following areas:

Regulations.

"(A) Financial management.

"(B) Property maintenance.

"(C) Responsibilities of homeownership and tenancy.

"(D) Fair housing laws and requirements.

"(E) Housing affordability.

"(F) Avoidance of, and responses to, rental and mortgage delinquency and avoidance of eviction and mortgage default.

"(3) ENCOURAGEMENT.—The Secretary shall encourage organizations engaged in providing homeownership and rental counseling that do not receive assistance under this section to employ individuals to provide such counseling who are certified under this subsection or meet the certification standards established under this subsection.

"(f) HOMEOWNERSHIP AND RENTAL COUNSELOR TRAINING AND CERTIFICATION PROGRAMS.—

"(1) ESTABLISHMENT.—To the extent amounts are provided in appropriations Acts under paragraph (7), the Secretary shall contract with an appropriate entity (which may be a nonprofit organization) to carry out a program under this subsection to train individuals to provide homeownership and rental counseling and to administer the examination under subsection (e)(2) and certify individuals under such subsection.

"(2) ELIGIBILITY AND SELECTION.—

"(A) ELIGIBILITY.—To be eligible to provide the training and certification program under this subsection, an entity shall have demonstrated experience in training homeownership and rental counselors.

"(B) SELECTION.—The Secretary shall provide for entities meeting the requirements of subparagraph (A) to submit applications to provide the training and certification program under this subsection. The Secretary shall select an application based on the ability of the entity to—

"(i) establish the program as soon as possible on a national basis, but not later than the date under paragraph (6);

"(ii) minimize the costs involved in establishing the program; and

"(iii) effectively and efficiently carry out the program.

"(3) TRAINING.—The Secretary shall require that training of counselors under the program under this subsection be designed and coordinated to prepare individuals for successful completion of the examination for certification under subsection (e)(2). The Secretary, in consultation with the entity selected under paragraph (2)(B), shall establish the curriculum and standards for training counselors under the program.

"(4) CERTIFICATION.—The entity selected under paragraph (2)(B) shall administer the examination under subsection (e)(2) and, on behalf of the Secretary, certify individuals successfully completing the examination. The Secretary, in consultation with such entity, shall establish the content and format of the examination.

"(5) FEES.—Subject to the approval of the Secretary, the entity selected under paragraph (2)(B) may establish and impose reasonable fees for participation in the training provided under the program and for examination and certification under subsection (e)(2), in an amount sufficient to cover any costs of such activities not covered with amounts provided under paragraph (7).

"(6) TIMING.—The entity selected under paragraph (2)(B) to carry out the training and certification program shall establish the program as soon as possible after such selection, and shall make training and certification available under the program on a national basis not later than the expiration of the 1-year period beginning upon such selection.

"(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection \$2,000,000 for fiscal year 1993 and \$2,084,000 for 1994."

(e) REGULATIONS.—The Secretary of Housing and Urban Development shall issue any regulations necessary to carry out the amendments made by subsection (d), not later than the expiration of the 6-month period beginning on the date of the enactment of this Act.

#### SEC. 163. USE OF FUNDS RECAPTURED FROM REFINANCING STATE AND LOCAL FINANCE PROJECTS.

IN GENERAL.—Section 1012 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (42 U.S.C. 1437f note) is amended to read as follows:

#### "SEC. 1012. USE OF FUNDS RECAPTURED FROM REFINANCING STATE AND LOCAL FINANCE PROJECTS.

"(a) DEFINITION OF QUALIFIED PROJECT.—For purposes of this section, the term 'qualified project' means any State financed project or local government or local housing agency financed project, that—

"(1) was—

"(A) provided a financial adjustment factor under section 8 of the United States Housing Act of 1937; or

"(B) constructed or substantially rehabilitated pursuant to assistance provided under a contract under section

8(b)(2) of the United States Housing Act of 1937 (as in effect on September 30, 1983) entered into during any of calendar years 1979 through 1984; and  
 “(2) is being refinanced.

“(b) AVAILABILITY OF FUNDS.—The Secretary shall make available to the State housing finance agency in the State in which a qualified project is located, or the local government or local housing agency initiating the refinancing of the qualified project, as applicable, an amount equal to 50 percent of the amounts recaptured from the project (as determined by the Secretary on a project-by-project basis). Notwithstanding any other provision of law, such amounts shall be used only for providing decent, safe, and sanitary housing affordable for very low-income families and persons.

“(c) APPLICABILITY AND BUDGET COMPLIANCE.—

“(1) RETROACTIVITY.—This section shall apply to refinancings of projects for which settlement occurred or occurs before, on, or after the date of the enactment of the Housing and Community Development Act of 1992, subject to the provisions of paragraph (2).

“(2) BUDGET COMPLIANCE.—This section shall apply only to the extent or in such amounts as are provided in appropriation Acts.”.

#### **SEC. 164. HOPE FOR YOUTH.**

Title IV of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437aaa note et seq.) is amended by adding at the end the following new subtitle:

### **“Subtitle D—HOPE for Youth: Youthbuild**

Disadvantaged.

#### **“SEC. 451. STATEMENT OF PURPOSE.**

42 USC 12899.

“It is the purpose of this subtitle—

“(1) to expand the supply of permanent affordable housing for homeless individuals and members of low- and very low-income families by utilizing the energies and talents of economically disadvantaged young adults;

“(2) to provide economically disadvantaged young adults with opportunities for meaningful work and service to their communities in helping to meet the housing needs of homeless individuals and members of low- and very low-income families;

“(3) to enable economically disadvantaged young adults to obtain the education and employment skills necessary to achieve economic self-sufficiency; and

“(4) to foster the development of leadership skills and commitment to community development among young adults in low-income communities.

#### **“SEC. 452. PROGRAM AUTHORITY.**

42 USC 12899a.

“The Secretary may make—

“(1) planning grants to enable applicants to develop Youthbuild programs; and

“(2) implementation grants to enable applicants to carry out Youthbuild programs.

#### **“SEC. 453. PLANNING GRANTS.**

42 USC 12899b.

“(a) GRANTS.—The Secretary is authorized to make planning grants to applicants for the purpose of developing Youthbuild pro-

grams under this subtitle. The amount of a planning grant under this section may not exceed \$150,000, except that the Secretary may for good cause approve a grant in a higher amount.

"(b) ELIGIBLE ACTIVITIES.—Planning grants may be used for activities to develop Youthbuild programs including—

"(1) studies of the feasibility of a Youthbuild program;

"(2) establishment of consortia between youth training and education programs and housing owners or developers, including any organizations specified in section 457(2), which will participate in the Youthbuild program;

"(3) identification and selection of a site for the Youthbuild program;

"(4) preliminary architectural and engineering work for the Youthbuild program;

"(5) identification and training of staff for the Youthbuild program;

"(6) planning for education, job training, and other services that will be provided as part of the Youthbuild program;

"(7) other planning, training, or technical assistance necessary in advance of commencing the Youthbuild program; and

"(8) preparation of an application for an implementation grant under this subtitle.

"(c) APPLICATION.—

"(1) FORM AND PROCEDURES.—An application for a planning grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

"(2) MINIMUM REQUIREMENTS.—The Secretary shall require that an application contain at a minimum—

"(A) a request for a planning grant, specifying the activities proposed to be carried out, the schedule for completing the activities, the personnel necessary to complete the activities, and the amount of the grant requested;

"(B) a description of the applicant and a statement of its qualifications, including a description of the applicant's past experience with housing rehabilitation or construction and with youth and youth education and employment training programs, and its relationship with local unions and apprenticeship programs, and other community groups;

"(C) identification and description of potential sites for the program and the construction or rehabilitation activities that would be undertaken at such sites; potential methods for identifying and recruiting youth participants; potential educational and job training activities, work opportunities and other services for participants; and potential coordination with other Federal, State, and local housing and youth education and employment training activities including activities conducted by Indian tribes;

"(D) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located; and

“(E) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

“(d) **SELECTION CRITERIA.**—The Secretary shall, by regulation, establish selection criteria for a national competition for assistance under this section, which shall include—

Regulations.

“(1) the qualifications or potential capabilities of the applicant;

“(2) the potential of the applicant for developing a successful and affordable Youthbuild program;

“(3) the need for the prospective program, as determined by the degree of economic distress—

“(A) of the community from which participants would be recruited (such as poverty, youth unemployment, and number of individuals who have dropped out of high school); and

“(B) of the community in which the housing proposed to be constructed or rehabilitated would be located (such as incidence of homelessness, shortage of affordable housing, and poverty); and

“(4) such other factors that the Secretary shall require that (in the determination of the Secretary) are appropriate for purposes of carrying out the program established by this subtitle in an effective and efficient manner.

**“SEC. 454. IMPLEMENTATION GRANTS.**

42 USC 12899c.

“(a) **GRANTS.**—The Secretary is authorized to make implementation grants to applicants for the purpose of carrying out Youthbuild programs approved under this subtitle.

“(b) **ELIGIBLE ACTIVITIES.**—Implementation grants may be used to carry out Youthbuild programs, including the following activities:

“(1) Architectural and engineering work.

“(2) Acquisition, rehabilitation, acquisition and rehabilitation, or construction of housing and related facilities to be used for the purposes of providing homeownership under subtitle B and subtitle C of this title, residential housing for homeless individuals, and low- and very low-income families, or transitional housing for persons who are homeless, have disabilities, are ill, are deinstitutionalized, or have other special needs.

“(3) Administrative costs of the applicant, which may not exceed 15 percent of the amount of assistance provided under this section, or such higher percentage as the Secretary determines is necessary to support capacity development by a private nonprofit organization.

“(4) Education and job training services and activities including—

“(A) work experience and skills training, coordinated, to the maximum extent feasible, with preapprenticeship and apprenticeship programs, in the construction and rehabilitation activities described in subsection (b)(2);

“(B) services and activities designed to meet the educational needs of participants, including—

“(i) basic skills instruction and remedial education;

"(ii) bilingual education for individuals with limited-English proficiency;

"(iii) secondary education services and activities designed to lead to the attainment of a high school diploma or its equivalent; and

"(iv) counseling and assistance in attaining post-secondary education and required financial aid;

"(C) counseling services and related activities;

"(D) activities designed to develop employment and leadership skills, including support for youth councils; and

"(E) support services and need-based stipends necessary to enable individuals to participate in the program and, for a period not to exceed 12 months after completion of training, to assist participants through support services in retaining employment.

"(5) Wage stipends and benefits provided to participants.

"(6) Funding of operating expenses and replacement reserves of the property covered by the Youthbuild program.

"(7) Legal fees.

"(8) Defraying costs for the ongoing training and technical assistance needs of the recipient that are related to developing and carrying out the Youthbuild program.

"(c) APPLICATION.—

"(1) FORM AND PROCEDURE.—An application for an implementation grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

"(2) MINIMUM REQUIREMENTS.—The Secretary shall require that an application contain at a minimum—

"(A) a request for an implementation grant, specifying the amount of the grant requested and its proposed uses;

"(B) a description of the applicant and a statement of its qualifications, including a description of the applicant's past experience with housing rehabilitation or construction and with youth and youth education and employment training programs, and its relationship with local unions and apprenticeship programs, and other community groups;

"(C) a description of the proposed site for the program;

"(D) a description of the educational and job training activities, work opportunities, and other services that will be provided to participants;

"(E) a description of the proposed construction or rehabilitation activities to be undertaken and the anticipated schedule for carrying out such activities;

"(F) a description of the manner in which eligible youths will be recruited and selected, including a description of arrangements which will be made with community-based organizations, State and local educational agencies, including agencies of Indian tribes, public assistance agencies, the courts of jurisdiction for status and youth offenders, shelters for homeless individuals and other agencies that serve homeless youth, foster care agencies, and other appropriate public and private agencies;

"(G) a description of the special outreach efforts that will be undertaken to recruit eligible young women (including young women with dependent children);

"(H) a description of how the proposed program will be coordinated with other Federal, State, and local activities and activities conducted by Indian tribes, including vocational, adult and bilingual education programs, job training provided with funds available under the Job Training Partnership Act and the Family Support Act of 1988, and housing and community development programs, including programs that receive assistance under section 106 of the Housing and Community Development Act of 1974;

"(I) assurances that there will be a sufficient number of adequately trained supervisory personnel in the program who have attained the level of journeyman or its equivalent;

"(J) a description of the applicant's relationship with local building trade unions regarding their involvement in training, and the relationship of the Youthbuild program with established apprenticeship programs;

"(K) a description of activities that will be undertaken to develop the leadership skills of participants;

"(L) a detailed budget and a description of the system of fiscal controls and auditing and accountability procedures that will be used to ensure fiscal soundness;

"(M) a description of the commitments for any additional resources to be made available to the program from the applicant, from recipients of other Federal, State or local housing and community development assistance who will sponsor any part of the construction, rehabilitation, operation and maintenance, or other housing and community development activities undertaken as part of the program, or from other Federal, State or local activities and activities conducted by Indian tribes, including, but not limited to, vocational, adult and bilingual education programs, and job training provided with funds available under the Job Training Partnership Act and the Family Support Act of 1988;

"(N) identification and description of the financing proposed for any—

"(i) rehabilitation;

"(ii) acquisition of the property; or

"(iii) construction;

"(O) identification and description of the entity that will operate and manage the property;

"(P) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located; and

"(Q) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

"(d) SELECTION CRITERIA.—The Secretary shall establish selection criteria for assistance under this section, which shall include—

"(1) the qualifications or potential capabilities of the applicant;

"(2) the feasibility of the Youthbuild program;

"(3) the potential for developing a successful Youthbuild program;

"(4) the need for the prospective project, as determined by the degree of economic distress of the community from which participants would be recruited (such as poverty, youth unemployment, number of individuals who have dropped out of high school) and of the community in which the housing proposed to be constructed or rehabilitated would be located (such as incidence of homelessness, shortage of affordable housing, poverty);

"(5) the apparent commitment of the applicant to leadership development, education, and training of participants;

"(6) the inclusion of previously homeless tenants in the housing provided;

"(7) the commitment of other resources to the program by the applicant and by recipients of other Federal, State or local housing and community development assistance who will sponsor any part of the construction, rehabilitation, operation and maintenance, or other housing and community development activities undertaken as part of the program, or by other Federal, State or local activities and activities conducted by Indian tribes, including, but not limited to, vocational, adult and bilingual education programs, and job training provided with funds available under the Job Training Partnership Act and the Family Support Act of 1988; and

"(8) such other factors as the Secretary determines to be appropriate for purposes of carrying out the program established by this subtitle in an effective and efficient manner.

"(e) **PRIORITY FOR APPLICANTS WHO OBTAIN HOUSING MONEY FROM OTHER SOURCES.**—The Secretary shall give priority in the award of grants under this section to applicants to the extent that they propose to finance activities described in paragraphs (1), (2), and (6) of subsection (b) from funds provided from Federal, State, local, or private sources other than assistance under this subtitle.

"(f) **APPROVAL.**—The Secretary shall notify each applicant, not later than 4 months after the date of the submission of the application, whether the application is approved or not approved.

"(g) **COMBINED PLANNING AND IMPLEMENTATION GRANT APPLICATION PROCEDURE.**—The Secretary shall develop a procedure under which an applicant may apply at the same time and in a single application for a planning grant and an implementation grant, with receipt of the implementation grant conditioned on successful completion of the activities funded by the planning grant.

42 USC 12899d.

**"SEC. 455. YOUTHBUILD PROGRAM REQUIREMENTS.**

"(a) **RESIDENTIAL RENTAL HOUSING.**—Each residential rental housing project receiving assistance under this subtitle shall meet the following requirements:

"(1) **OCCUPANCY BY LOW- AND VERY LOW-INCOME FAMILIES.**—  
In the project—

"(A) at least 90 percent of the units shall be occupied, or available for occupancy, by individuals and families with incomes less than 60 percent of the area median income, adjusted for family size; and



"(B) the remaining units shall be occupied, or available for occupancy, by low-income families.

"(2) TENANT PROTECTIONS.—

"(A) LEASE.—The lease between a tenant and an owner of residential rental housing assisted under this subtitle shall be for not less than 1 year, unless otherwise mutually agreed to by the tenant and the owner, and shall contain such terms and conditions as the Secretary shall determine to be appropriate.

"(B) TERMINATION OF TENANCY.—An owner shall not terminate the tenancy or refuse to renew the lease of a tenant of residential rental housing assisted under this title except for serious or repeated violation of the terms and conditions of the lease, for violation of applicable Federal, State, or local law, or for other good cause. Any termination or refusal to renew must be preceded by not less than 30 days by the owner's service upon the tenant of a written notice specifying the grounds for the action.

"(C) MAINTENANCE AND REPLACEMENT.—The owner of residential rental housing assisted under this subtitle shall maintain the premises in compliance with all applicable housing quality standards and local code requirements.

"(D) TENANT SELECTION.—The owner of residential rental housing assisted under this subtitle shall adopt written tenant selection policies and criteria that—

"(i) are consistent with the purpose of providing housing for very low-income and low-income families and individuals;

"(ii) are reasonably related to program eligibility and the applicant's ability to perform the obligations of the lease;

"(iii) give reasonable consideration to the housing needs of families that would qualify for a preference under section 6(c)(4)(A) of the United States Housing Act of 1937; and

"(iv) provide for (I) the selection of tenants from a written waiting list in the chronological order of their application, to the extent practicable, and (II) for the prompt notification in writing of any rejected applicant of the grounds for any rejection.

"(3) LIMITATION ON RENTAL PAYMENTS.—Tenants in each project shall not be required to pay rent in excess of the amount provided under section 3(a) of the United States Housing Act of 1937.

"(4) TENANT PARTICIPATION PLAN.—For each project owned by a nonprofit organization, the organization shall provide a plan for and follow a program of tenant participation in management decisions.

"(5) PROHIBITION AGAINST DISCRIMINATION.—A unit in a project assisted under this subtitle may not be refused for leasing to a family holding tenant-based assistance under section 8 of the United States Housing Act of 1937 because of the status of the prospective tenant as a holder of such assistance.

"(b) TRANSITIONAL HOUSING.—Each transitional housing project receiving assistance under this subtitle shall adhere to the requirements regarding service delivery, housing standards, and rent

limitations applicable to comparable housing receiving assistance under title IV of the Stewart B. McKinney Homeless Assistance Act.

**"(c) LIMITATIONS ON PROFITS FOR RENTAL AND TRANSITIONAL HOUSING.—**

**"(1) MONTHLY RENTAL LIMITATION.—**The aggregate monthly rental for each eligible project may not exceed the operating costs of the project (including debt service, management, adequate reserves, and other operating costs) plus a 6 percent return on any equity investment of the project owner.

**"(2) PROFIT LIMITATIONS ON PARTNERS.—**A nonprofit organization that receives assistance under this subtitle for a project shall agree to use any profit received from the operation, sale, or other disposition of the project for the purpose of providing housing for low- and moderate-income families. Profit-motivated partners in a nonprofit partnership may receive—

**"(A)** not more than a 6 percent return on their equity investment from project operations; and

**"(B)** upon disposition of the project, not more than an amount equal to their initial equity investment plus a return on that investment equal to the increase in the Consumer Price Index for the geographic location of the project since the time of the initial investment of such partner in the project.

**"(d) HOMEOWNERSHIP.—**Each homeownership project that receives assistance under this subtitle shall comply with the requirements of subtitle B or subtitle C of this title.

**"(e) RESTRICTIONS ON CONVEYANCE.—**The ownership interest in a project that receives assistance under this subtitle may not be conveyed unless the instrument of conveyance requires a subsequent owner to comply with the same restrictions imposed upon the original owner.

**"(f) CONVERSION OF TRANSITIONAL HOUSING.—**The Secretary may waive the requirements of subsection (b) to permit the conversion of a transitional housing project to a permanent housing project only if such housing would meet the requirements for residential rental housing specified in this section.

**"(g) PERIOD OF RESTRICTIONS.—**A project that receives assistance under this subtitle shall comply with the requirements of this section for the remaining useful life of the property.

42 USC 12899e.

**"SEC. 456. ADDITIONAL PROGRAM REQUIREMENTS.**

**"(a) ELIGIBLE PARTICIPANTS.—**

**"(1) IN GENERAL.—**Except as provided in paragraph (2), an individual may participate in a Youthbuild program receiving assistance under this subtitle only if such individual is—

**"(A)** 16 to 24 years of age, inclusive;

**"(B)** a very low-income individual or a member of a very low-income family; and

**"(C)** an individual who has dropped out of high school.

**"(2) EXCEPTION FOR INDIVIDUALS NOT MEETING INCOME OR EDUCATIONAL NEED REQUIREMENTS.—**Not more than 25 percent of the participants in such program may be individuals who do not meet the requirements of either paragraphs (1)(B) or (C), but who have educational needs despite attainment of a high school diploma or its equivalent.

**"(3) PARTICIPATION LIMITATION.**—Any eligible individual selected for full-time participation in a Youthbuild program may be offered full-time participation for a period of not less than 6 months and not more than 24 months.

**"(b) MINIMUM TIME DEVOTED TO EDUCATIONAL SERVICES AND ACTIVITIES.**—A Youthbuild program receiving assistance under this subtitle shall be structured so that 50 percent of the time spent by participants in the program is devoted to educational services and activities, such as those specified in subparagraphs (B) through (F) of section 454(b)(4).

**"(c) AUTHORITY RESTRICTION.**—No provision of this subtitle may be construed to authorize any agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system, or over the selection of library resources, textbooks, or other printed or published instructional materials by any educational institution or school system.

**"(d) STATE AND LOCAL STANDARDS.**—All educational programs and activities supported with funds provided under this subtitle shall be consistent with applicable State and local educational standards. Standards and procedures with respect to the awarding of academic credit and certifying educational attainment in such programs shall be consistent with applicable State and local educational standards.

**"(e) WAGES, LABOR STANDARDS, AND NONDISCRIMINATION.**—To the extent consistent with the provisions of this subtitle, sections 142, 143 and 167 of the Job Training Partnership Act, relating to wages and benefits, labor standards, and nondiscrimination, shall apply to the programs conducted under this subtitle as if such programs were conducted under the Job Training Partnership Act. This section may not be construed to prevent a recipient of a grant under this subtitle from using funds from non-Federal sources to increase wages and benefits under such programs, if appropriate.

**"SEC. 457. DEFINITIONS.**

42 USC 12899f.

**"For purposes of this subtitle:**

**"(1) ADJUSTED INCOME.**—The term 'adjusted income' has the meaning given the term in section 3(b) of the United States Housing Act of 1937.

**"(2) APPLICANT.**—The term 'applicant' means a public or private nonprofit agency, including—

**"(A)** a community-based organization;

**"(B)** an administrative entity designated under section 103(b)(1)(B) of the Job Training Partnership Act;

**"(C)** a community action agency;

**"(D)** a State and local housing development agency;

**"(E)** a community development corporation;

**"(F)** a State and local youth service and conservation corps; and

**"(G)** any other entity eligible to provide education and employment training under other Federal employment training programs.

**"(3) COMMUNITY-BASED ORGANIZATION.**—The term 'community-based organization' means a private nonprofit organization that—

"(A) maintains, through significant representation on the organization's governing board or otherwise, accountability to low-income community residents and, to the extent practicable, low-income beneficiaries of programs receiving assistance under this subtitle; and

"(B) has a history of serving the local community or communities where a program receiving assistance under this subtitle is located.

"(4) HOMELESS INDIVIDUAL.—The term 'homeless individual' has the meaning given the term in section 103 of the Stewart B. McKinney Homeless Assistance Act.

"(5) HOUSING DEVELOPMENT AGENCY.—The term 'housing development agency' means any agency of a State or local government, or any private nonprofit organization that is engaged in providing housing for homeless or low-income families.

"(6) INCOME.—The term 'income' has the meaning given the term in section 3(b) of the United States Housing Act of 1937.

"(7) INDIAN TRIBE.—The term 'Indian tribe' has the same meaning given such term in section 102(a)(17) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(17)).

"(8) INDIVIDUAL WHO HAS DROPPED OUT OF HIGH SCHOOL.—The term 'individual who has dropped out of high school' means an individual who is neither attending any school nor subject to a compulsory attendance law and who has not received a secondary school diploma or a certificate of equivalency for such diploma.

"(9) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given the term in section 1201(a) of the Higher Education Act of 1965.

"(10) LIMITED-ENGLISH PROFICIENCY.—The term 'limited-English proficiency' has the meaning given the term in section 7003 of the Bilingual Education Act.

"(11) LOW-INCOME FAMILY.—The term 'low-income family' has the meaning given the term in section 3(b) of the United States Housing Act of 1937.

"(12) OFFENDER.—The term 'offender' means any adult or juvenile with a record of arrest or conviction for a criminal offense.

"(13) QUALIFIED NONPROFIT AGENCY.—The term 'qualified public or private nonprofit agency' means any nonprofit agency that has significant prior experience in the operation of projects similar to the Youthbuild program authorized under this subtitle and that has the capacity to provide effective technical assistance.

"(14) RELATED FACILITIES.—The term 'related facilities' includes cafeterias or dining halls, community rooms or buildings, appropriate recreation facilities, and other essential service facilities.

"(15) SECRETARY.—The term 'Secretary' means the Secretary of Housing and Urban Development.

"(16) STATE.—The term 'State' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, the Trust Terri-

tories of the Pacific Islands, or any other territory or possession of the United States.

“(17) **TRANSITIONAL HOUSING.**—The term ‘transitional housing’ means a project that has as its purpose facilitating the movement of homeless individuals and families to independent living within a reasonable amount of time. Transitional housing includes housing primarily designed to serve deinstitutionalized homeless individuals and other homeless individuals with mental or physical disabilities and homeless families with children.

“(18) **VERY LOW-INCOME FAMILY.**—The term ‘very low-income family’ has the meaning given the term in section 3(b) of the United States Housing Act of 1937.

“(19) **YOUTHBUILD PROGRAM.**—The term ‘Youthbuild program’ means any program that receives assistance under this subtitle and provides disadvantaged youth with opportunities for employment, education, leadership development, and training in the construction or rehabilitation of housing for homeless individuals and members of low- and very low-income families.

**“SEC. 458. MANAGEMENT AND TECHNICAL ASSISTANCE.**

42 USC 12899g.

“(a) **SECRETARY ASSISTANCE.**—The Secretary may enter into contracts with a qualified public or private nonprofit agency to provide assistance to the Secretary in the management, supervision, and coordination of Youthbuild programs receiving assistance under this subtitle.

“(b) **SPONSOR ASSISTANCE.**—The Secretary shall enter into contracts with a qualified public or private nonprofit agency to provide appropriate training, information, and technical assistance to sponsors of programs assisted under this subtitle.

Contracts.

“(c) **APPLICATION PREPARATION.**—Technical assistance may also be provided in the development of program proposals and the preparation of applications for assistance under this subtitle to eligible entities which intend or desire to submit such applications. Community-based organizations shall be given first priority in the provision of such assistance.

“(d) **RESERVATION OF FUNDS.**—In each fiscal year, the Secretary shall reserve 5 percent of the amounts available for activities under this subtitle pursuant to section 402 to carry out subsections (b) and (c) of this section.

**“SEC. 459. CONTRACTS.**

42 USC 12899h.

“Each Youthbuild program shall carry out the services and activities under this subtitle directly or through arrangements or under contracts with administrative entities designated under section 103(b)(1)(B) of the Job Training Partnership Act, with State and local educational agencies, institutions of higher education, State and local housing development agencies, or with other public agencies, including agencies of Indian tribes, and private organizations.

**“SEC. 460. REGULATIONS.**

42 USC 12899i.

“The Secretary shall issue any regulations necessary to carry out this subtitle.”

**SEC. 165. EXTENSION FOR COMMENCEMENT OF CERTAIN CONSTRUCTION.**

Notwithstanding section 17(d)(4)(G) of the United States Housing Act of 1937, the Secretary of Housing and Urban Development

shall extend the deadline for commencement of construction until September 30, 1993, for the application for assistance under such section 17 for HDG project number IL004HG702, and upon commencement of construction shall execute the grant agreement for such project as currently approved or amended.

## Subtitle E—Homeownership Programs

### SEC. 181. HOPE PROGRAMS.

(a) AUTHORIZATION OF APPROPRIATIONS AND TECHNICAL ASSISTANCE.—

(1) IN GENERAL.—Title IV of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12871 et seq.) is amended by inserting after section 401 the following new section:

42 USC 12870.

### “SEC. 402. AUTHORIZATION OF APPROPRIATIONS.

“(a) FISCAL YEAR 1993.—There are authorized to be appropriated for grants under this title \$855,000,000 for fiscal year 1993, of which—

“(1) \$285,000,000 shall be available for activities authorized under title III of the United States Housing Act of 1937, of which up to \$4,500,000 of any amounts appropriated may be made available for technical assistance to potential applicants, applicants and recipients of assistance under this title;

“(2) \$285,000,000 shall be available for activities authorized under subtitle B, of which up to \$3,250,000 of any amounts appropriated may be made available for technical assistance to potential applicants, applicants and recipients of assistance under this subtitle; and

“(3) \$285,000,000 shall be available for activities under subtitle C, of which up to \$2,250,000 of any amounts appropriated may be made available for technical assistance to potential applicants, applicants and recipients of assistance under this subtitle.

Of the amounts appropriated pursuant to this subsection, up to \$40,000,000, but not less than 5 percent, shall be available for activities authorized under subtitle D. Any amount appropriated pursuant to this subsection shall remain available until expended.

“(b) FISCAL YEAR 1994.—There are authorized to be appropriated for grants under this title \$883,641,000 for fiscal year 1994, of which—

“(1) \$294,547,000 shall be available for activities authorized under title III of the United States Housing Act of 1937, up to \$4,500,000 of which may be made available for technical assistance to potential applicants, applicants and recipients of assistance under this title;

“(2) \$294,547,000 shall be available for activities authorized under subtitle B, up to \$3,250,000 of which may be made available for technical assistance to potential applicants, applicants and recipients of assistance under this subtitle; and

“(3) \$294,547,000 shall be available for activities under subtitle C, up to \$2,250,000 of which may be made available for technical assistance to potential applicants, applicants and recipients of assistance under this subtitle.

Of the amounts appropriated pursuant to this subsection, up to \$41,680,000, but not less than 5 percent, shall be available for activities authorized under subtitle D. Any amount appropriated pursuant to this subsection shall remain available until expended.

“(c) **TECHNICAL ASSISTANCE.**—Technical assistance made available under title III of the United States Housing Act of 1937 or subtitle B or subtitle C of this title may include, but shall not be limited to, training, clearinghouse services, the collection, processing and dissemination of program information useful for local and national program management, and provision of seed money. Such technical assistance may be made available directly, or indirectly under contracts and grants, as appropriate. In any fiscal year, no single applicant, potential applicant, or recipient under title III of the United States Housing Act of 1937, or subtitle B or subtitle C of this title may receive technical assistance in an amount exceeding 20 percent of the total amount made available for technical assistance under such title or subtitle for the fiscal year.”.

(2) **CONFORMING AMENDMENTS.**—

(A) **HOPE I.**—Section 301 of the United States Housing Act of 1937 (42 U.S.C. 1437aaa(c)) is amended by striking subsection (c).

(B) **HOPE II AND HOPE III.**—Title IV of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12871 et seq.) is amended—

(i) by striking subsection (c) of section 421; and

42 USC 12871.

(ii) in section 441—

42 USC 12891.

(I) by striking “(a) **IN GENERAL.**—”; and

(II) by striking subsection (b).

(3) **GAO AUDIT OF TECHNICAL ASSISTANCE CONTRACTS.**—

42 USC 12870  
note.

The Comptroller General of the United States shall conduct an audit of all of the technical assistance contracts awarded for fiscal years 1993 and 1994 pursuant to section 402 of the Cranston-Gonzalez National Affordable Housing Act. The Comptroller General shall submit a report to the Congress describing the results of such audit not later than September 30, 1994.

Reports.

(b) **HOPE I MATCHING FUNDING.**—Section 303(c) of the United States Housing Act of 1937 (42 U.S.C. 1437aaa-2(c)(1)) is amended—

(1) in paragraph (1), by inserting after “expenses” the following: “and replacement housing”; and

(2) by inserting at the end the following new paragraph:

“(3) **REDUCTION OF REQUIREMENT.**—The Secretary shall reduce the matching requirement for homeownership programs carried out under this section in accordance with the formula established under section 220(d) of the Cranston-Gonzalez National Affordable Housing Act.”.

(c) **GRANT SELECTION CRITERIA FOR HOPE I.**—Section 303(e)(8) of the United States Housing Act of 1937 (42 U.S.C. 1437aaa-2(e)(8)) is amended—

(1) by striking “of the type assisted under this title”; and

(2) by striking “appreciably”.

(d) **ELIGIBILITY OF MUTUAL HOUSING ASSOCIATIONS FOR HOPE II GRANTS.**—Section 426(1) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12876(1)) is amended by adding at the end the following new subparagraph:

“(G) A mutual housing association.”.

(e) **ELIGIBLE PROPERTY UNDER HOPE II.**—Section 426(3)(D) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12876(3)(D)) is amended by inserting before the period at the end the following “or an agency or instrumentality thereof”.

(f) **PREFERENCE FOR ACQUISITION OF VACANT UNITS UNDER HOPE III.**—Section 444 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12894) is amended by adding at the end the following new subsection:

“(f) **PREFERENCE FOR ACQUISITION OF VACANT UNITS.**—Each homeownership program under this subtitle shall provide that, in making vacant units in eligible properties available for acquisition by eligible families, preference shall be given to eligible families who reside in public or Indian housing.”.

(g) **TRANSFER OF SCATTERED SITE PUBLIC AND INDIAN HOUSING TO HOPE PROGRAMS.**—

(1) **HOPE I.**—

(A) **IN GENERAL.**—Sections 303(b)(2) and 304(d) of the United States Housing Act of 1937 (42 U.S.C. 1437aaa-2(b)(2) and 42 U.S.C. 1437aaa-3(d)) are each amended by striking “(not including scattered site single family housing of a public housing agency)”.

(B) **OPERATING SUBSIDIES.**—Section 303(b)(9) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437aaa-2(b)(9)) is amended by inserting before the period at the end the following: “, and except that implementation grants may not be used under this paragraph to fund operating expenses for scattered site public housing acquired under a homeownership program”.

(2) **HOPE III.**—Section 446(4) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12896(4)) is amended by striking “(including scattered site single family properties, and” and inserting “(excluding public or Indian housing under the United States Housing Act of 1937 and including”.

(h) **ELIGIBILITY OF OTHER FEDERAL PROPERTY FOR HOPE PROGRAMS.**—Sections 426(3)(D) and 446(4) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12876(3)(D) and 42 U.S.C. 12896(4)) are each amended by inserting after “Corporation,” the following: “the Federal Deposit Insurance Corporation, the Secretary of Defense, the Secretary of Transportation, the General Services Administration, any other Federal agency,”.

#### **SEC. 182. NATIONAL HOMEOWNERSHIP TRUST DEMONSTRATION.**

(a) **EXTENSION OF TRUST.**—Section 310 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12859) is amended by striking “on September 30, 1993” and inserting “September 30, 1994”.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—Section 308 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12857) is amended to read as follows:

#### **“SEC. 308. AUTHORIZATION OF APPROPRIATIONS.**

“There are authorized to be appropriated for assistance payments under this subtitle \$520,665,600 for fiscal year 1993 and \$542,533,555 for fiscal year 1994, of which such sums as may be necessary shall be available in each such fiscal year for use under section 303(e). Any amount appropriated under this section



shall be deposited in the Fund and shall remain available until expended, subject to the provisions of section 311.”.

**(c) USE OF TRUST AMOUNTS IN CONNECTION WITH MORTGAGE REVENUE BONDS.—**

**(1) IN GENERAL.**—Section 303 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12852) is amended by adding at the end the following new subsection:

**“(e) ASSISTANCE IN CONNECTION WITH HOUSING FINANCED WITH MORTGAGE REVENUE BONDS.—**

**“(1) AUTHORITY.**—The Trust shall provide assistance for first-time homebuyers in the form of interest rate buydowns and downpayment assistance under this subsection. Such assistance shall be available only with respect to mortgages for the purchase of residences (A) financed with the proceeds of a qualified mortgage bond (as such term is defined in section 143 of the Internal Revenue Code of 1986), or (B) for which a credit is allowable under section 25 of such Code.

**“(2) ELIGIBILITY.**—To be eligible for assistance under this subsection, homebuyers and mortgages shall also meet the requirements under subsection (b) of this section, except that—

**“(A) the certification under subsection (b)(3) shall not be required for assistance under this subsection;**

**“(B) the provisions of subsection (b)(2) shall not apply to assistance under this section; and**

**“(C) the aggregate income of the homebuyer and the members of the family of the homebuyer residing with the homebuyer, for the 12-month period preceding the date of the application of the homebuyer for assistance under this subsection, shall not exceed 80 percent of the median income for a family of 4 persons (as adjusted for family size) in the applicable metropolitan statistical area.**

**“(3) LIMITATION OF ASSISTANCE.**—Notwithstanding subsection (a), assistance payments for first-time homebuyers under this subsection shall be provided in the following manners:

**“(A) INTEREST RATE BUYDOWNS.**—Assistance payments to decrease the rate of interest payable on the mortgages by the homebuyers, in an amount not exceeding—

**“(i) in the first year of the mortgage, 2.0 percent of the total principal obligation of the mortgage;**

**“(ii) in the second year of the mortgage, 1.5 percent of the total principal obligation of the mortgage;**

**“(iii) in the third year of the mortgage, 1.0 percent of the total principal obligation of the mortgage; and**

**“(iv) in the fourth year of the mortgage, 0.5 percent of the total principal obligation of the mortgage.**

**“(B) DOWNPAYMENT ASSISTANCE.**—Assistance payments to provide amounts for downpayments on mortgages by the homebuyers, in an amount not exceeding 2.5 percent of the principal obligation of the mortgage.

**“(3) AVAILABILITY.**—The Trust may make assistance payments under subparagraphs (A) and (B) of paragraph (3) with respect to a single mortgage of a homebuyer.”.

**(2) CONFORMING AMENDMENT.**—Section 303(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12852(a)) is amended by adding at the end the following new paragraph:

**"(3) ASSISTANCE IN CONNECTION WITH MORTGAGE REVENUE BONDS FINANCING.**—Interest rate buydowns and downpayment assistance in the manner provided in subsection (e)."

**(d) ELIGIBILITY OF MANUFACTURED HOME OWNERS.**—Section 303(b)(1) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12852(b)(1)) is amended—

- (1) in subparagraph (B), by striking "or" at the end;
- (2) in subparagraph (C), by striking the period at the end and inserting "; or"; and
- (3) by adding at the end the following new subparagraph:  
 "(D) meets the requirements of subparagraph (A), (B), or (C), except for owning, as a principal residence, a dwelling unit whose structure is—

"(i) not permanently affixed to a permanent foundation in accordance with local or other applicable regulations; or

"(ii) not in compliance with State, local, or model building codes, or other applicable codes, and cannot be brought into compliance with such codes for less than the cost of constructing a permanent structure."

**(e) SECOND MORTGAGE ASSISTANCE.**—Section 303(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12852(a)) is amended by adding after paragraph (3) (as added by subsection (c)(3) of this section) the following new paragraphs:

**"(4) SECOND MORTGAGE ASSISTANCE.**—Assistance payments to provide loans (secured by second mortgages) with deferred payment of interest and principal; and

**"(5) CAPITALIZATION OF REVOLVING LOAN FUNDS.**—Grants to public organizations or agencies to establish revolving loan funds to provide homeownership assistance to eligible first-time homebuyers consistent with the requirements of this subtitle. Such grants shall be matched by an equal amount of local investment in such revolving loan funds. Any proceeds or repayments from loans made under this paragraph shall be returned to the revolving loan fund established under this paragraph to be used for purposes related to this section."

#### **SEC. 183. NEHEMIAH HOUSING OPPORTUNITY GRANTS.**

**(a) HOMEOWNER INCENTIVE.**—Section 604 of the Housing and Community Development Act of 1987 (12 U.S.C. 1715l note) is amended—

- (1) in subsection (b)(4), by inserting before the period the following: "; subject to the provisions of subsection (c)"; and
- (2) by adding at the end the following new subsection:

**"(c) HOMEOWNER INCENTIVE.**—The nonprofit organization may provide that, upon the sale or transfer of a property purchased with a loan made under this section, any proceeds remaining after repaying the first mortgage shall be distributed in the following order:

**"(1) DOWNPAYMENT.**—The amount of the downpayment made by the seller or transferor upon the purchase of the property shall be paid to the seller or transferor.

**"(2) LOAN AND PROFIT.**—Any amounts remaining after distribution under paragraph (1) shall be shared equally between the Secretary and the seller or transferor, but only to the extent that the Secretary recovers an amount equal to the amount of the loan made under this section. If such remaining

amounts are insufficient for the Secretary to recover the full amount of the loan made under this section, the second mortgage held by the Secretary under subsection (b)(1) shall be cancelled.

“(3) PROFIT.—Any amounts remaining after distribution under paragraphs (1) and (2) shall be paid to the seller or transferor.”.

(b) CONFORMING AMENDMENTS.—Section 606(e)(5) of the Housing and Community Development Act of 1987 (12 U.S.C. 1715l note) is amended—

(1) by inserting “subject to the provisions of section 604(c),” after the comma; and

(2) by striking “(in which case” and all that follows through “repaid”).

(c) APPLICABILITY.—The amendments made by this section shall apply to any loan made under section 604 of the Housing and Community Development Act of 1987 after July 1, 1990.

12 USC 1715l  
note.

12 USC 1715l  
note.

#### SEC. 184. LOAN GUARANTEES FOR INDIAN HOUSING.

12 USC  
1715z-13a.

(a) AUTHORITY.—To provide access to sources of private financing to Indian families and Indian housing authorities who otherwise could not acquire housing financing because of the unique legal status of Indian trust land, the Secretary may guarantee not to exceed 100 percent of the unpaid principal and interest due on any loan eligible under subsection (b) made to an Indian family or Indian housing authority.

(b) ELIGIBLE LOANS.—Loans guaranteed pursuant to this section shall meet the following requirements:

(1) ELIGIBLE BORROWERS.—The loans shall be made only to borrowers who are Indian families or Indian housing authorities.

(2) ELIGIBLE HOUSING.—The loan shall be used to construct, acquire, or rehabilitate 1- to 4-family dwellings that are standard housing and are located on trust land or land located in an Indian or Alaska Native area.

(3) SECURITY.—The loan may be secured by any collateral authorized under existing Federal law or applicable State or tribal law.

(4) LENDERS.—The loan shall be made only by a lender approved by and meeting qualifications established by the Secretary, except that loans otherwise insured or guaranteed by an agency of the Federal Government or made by an organization of Indians from amounts borrowed from the United States shall not be eligible for guarantee under this section. The following lenders are deemed to be approved under this paragraph:

(A) Any mortgagee approved by the Secretary of Housing and Urban Development for participation in the single family mortgage insurance program under title II of the National Housing Act.

(B) Any lender whose housing loans under chapter 37 of title 38, United States Code are automatically guaranteed pursuant to section 1802(d) of such title.

(C) Any lender approved by the Secretary of Agriculture to make guaranteed loans for single family housing under the Housing Act of 1949.

(D) Any other lender that is supervised, approved, regulated, or insured by any agency of the Federal Government.

(5) TERMS.—The loan shall—

(A) be made for a term not exceeding 30 years;

(B) bear interest (exclusive of the guarantee fee under section 404 and service charges, if any) at a rate agreed upon by the borrower and the lender and determined by the Secretary to be reasonable, which may not exceed the rate generally charged in the area (as determined by the Secretary) for home mortgage loans not guaranteed or insured by any agency or instrumentality of the Federal Government;

(C) involve a principal obligation not exceeding—

(i) an amount equal to the sum of (I) 97 percent of \$25,000 of the appraised value of the property, as of the date the loan is accepted for guarantee, and (II) 95 percent of such value in excess of \$25,000; and

(ii) the amount approved by the Secretary under this section; and

(D) involve a payment on account of the property (i) in cash or its equivalent, or (ii) through the value of any improvements to the property made through the skilled or unskilled labor of the borrower, as the Secretary shall provide.

(c) CERTIFICATE OF GUARANTEE.—

(1) APPROVAL PROCESS.—Before the Secretary approves any loan for guarantee under this section, the lender shall submit the application for the loan to the Secretary for examination. If the Secretary approves the loan for guarantee, the Secretary shall issue a certificate under this paragraph as evidence of the guarantee.

(2) STANDARD FOR APPROVAL.—The Secretary may approve a loan for guarantee under this section and issue a certificate under this paragraph only if the Secretary determines there is a reasonable prospect of repayment of the loan.

(3) EFFECT.—A certificate of guarantee issued under this paragraph by the Secretary shall be conclusive evidence of the eligibility of the loan for guarantee under the provisions of this section and the amount of such guarantee. Such evidence shall be incontestable in the hands of the bearer and the full faith and credit of the United States is pledged to the payment of all amounts agreed to be paid by the Secretary as security for such obligations.

(4) FRAUD AND MISREPRESENTATION.—This subsection may not be construed to preclude the Secretary from establishing defenses against the original lender based on fraud or material misrepresentation or to bar the Secretary from establishing by regulations in effect on the date of issuance or disbursement, whichever is earlier, partial defenses to the amount payable on the guarantee.

(d) GUARANTEE FEE.—The Secretary shall fix and collect a guarantee fee for the guarantee of loans under this section, which may not exceed the amount equal to 1 percent of the principal obligation of the loan. The fee shall be paid by the lender at time of issuance of the guarantee and shall be adequate, in the

determination of the Secretary, to cover expenses and probable losses. The Secretary shall deposit any fees collected under this subsection in the Indian Housing Loan Guarantee Fund established under subsection (i).

(e) **LIABILITY UNDER GUARANTEE.**—The liability under a guarantee provided under this section shall decrease or increase on a pro rata basis according to any decrease or increase in the amount of the unpaid obligation under the provisions of the loan agreement.

(f) **TRANSFER AND ASSUMPTION.**—Notwithstanding any other provision of law, any loan guaranteed under this section, including the security given for the loan, may be sold or assigned by the lender to any financial institution subject to examination and supervision by an agency of the Federal Government or of any State or the District of Columbia.

(g) **DISQUALIFICATION OF LENDERS AND CIVIL MONEY PENALTIES.**—

(1) **IN GENERAL.**—If the Secretary determines that any lender or holder of a guarantee certificate under subsection (c) has failed to maintain adequate accounting records, to adequately service loans guaranteed under this section, to exercise proper credit or underwriting judgment, or has engaged in practices otherwise detrimental to the interest of a borrower or the United States, the Secretary may—

(A) refuse, either temporarily or permanently, to guarantee any further loans made by such lender or holder;

(B) bar such lender or holder from acquiring additional loans guaranteed under this section; and

(C) require that such lender or holder assume not less than 10 percent of any loss on further loans made or held by the lender or holder that are guaranteed under this section.

(2) **CIVIL MONEY PENALTIES FOR INTENTIONAL VIOLATIONS.**—If the Secretary determines that any lender or holder of a guarantee certificate under subsection (c) has intentionally failed to maintain adequate accounting records, to adequately service loans guaranteed under this section, or to exercise proper credit or underwriting judgment, the Secretary may impose a civil money penalty on such lender or holder in the manner and amount provided under section 536 of the National Housing Act with respect to mortgagees and lenders under such Act.

(3) **PAYMENT ON LOANS MADE IN GOOD FAITH.**—Notwithstanding paragraphs (1) and (2), the Secretary may not refuse to pay pursuant to a valid guarantee on loans of a lender or holder barred under this subsection if the loans were previously made in good faith.

(h) **PAYMENT UNDER GUARANTEE.**—

(1) **LENDER OPTIONS.**—

(A) **IN GENERAL.**—In the event of default by the borrower on a loan guaranteed under this section, the holder of the guarantee certificate shall provide written notice of the default to the Secretary. Upon providing such notice, the holder of the guarantee certificate shall be entitled to payment under the guarantee (subject to the provisions of this section) and may proceed to obtain payment in one of the following manners:

(i) FORECLOSURE.—The holder of the certificate may initiate foreclosure proceedings in a court of competent jurisdiction (after providing written notice of such action to the Secretary) and upon a final order by the court authorizing foreclosure and submission to the Secretary of a claim for payment under the guarantee, the Secretary shall pay to the holder of the certificate the pro rata portion of the amount guaranteed (as determined pursuant to subsection (e)) plus reasonable fees and expenses as approved by the Secretary. The Secretary shall be subrogated to the rights of the holder of the guarantee and the lender holder shall assign the obligation and security to the Secretary.

(ii) NO FORECLOSURE.—Without seeking a judicial foreclosure (or in any case in which a foreclosure proceeding initiated under clause (i) continues for a period in excess of 1 year), the holder of the guarantee may submit to the Secretary a claim for payment under the guarantee and the Secretary shall only pay to such holder for a loss on any single loan an amount equal to 90 percent of the pro rata portion of the amount guaranteed (as determined under subsection (e)). The Secretary shall be subrogated to the rights of the holder of the guarantee and the holder shall assign the obligation and security to the Secretary.

(B) REQUIREMENTS.—Before any payment under a guarantee is made under subparagraph (A), the holder of the guarantee shall exhaust all reasonable possibilities of collection. Upon payment, in whole or in part, to the holder, the note or judgment evidencing the debt shall be assigned to the United States and the holder shall have no further claim against the borrower or the United States. The Secretary shall then take such action to collect as the Secretary determines appropriate.

(2) ASSIGNMENT BY SECRETARY.—Notwithstanding paragraph (1), upon receiving notice of default on a loan guaranteed under this section from the holder of the guarantee, the Secretary may accept assignment of the loan if the Secretary determines that the assignment is in the best interests of the United States. Upon assignment the Secretary shall pay to the holder of the guarantee the pro rata portion of the amount guaranteed (as determined under subsection (e)). The Secretary shall be subrogated to the rights of the holder of the guarantee and the holder shall assign the obligation and security to the Secretary.

(3) LIMITATIONS ON LIQUIDATION.—In the event of a default by the borrower on a loan guaranteed under this section involving a security interest in tribal allotted or trust land, the Secretary shall only pursue liquidation after offering to transfer the account to an eligible tribal member, the tribe, or the Indian housing authority serving the tribe or tribes. If the Secretary subsequently proceeds to liquidate the account, the Secretary shall not sell, transfer, or otherwise dispose of or alienate the property except to one of the entities described in the preceding sentence.

(i) INDIAN HOUSING LOAN GUARANTEE FUND.—

(1) **ESTABLISHMENT.**—There is established in the Treasury of the United States the Indian Housing Loan Guarantee Fund for the purpose of providing loan guarantees under this section.

(2) **CREDITS.**—The Guarantee Fund shall be credited with—

(A) any amounts, claims, notes, mortgages, contracts, and property acquired by the Secretary under this section, and any collections and proceeds therefrom;

(B) any amounts appropriated under paragraph (7);

(C) any guarantee fees collected under subsection (d); and

(D) any interest or earnings on amounts invested under paragraph (4).

(3) **USE.**—Amounts in the Guarantee Fund shall be available, to the extent provided in appropriation Acts, for—

(A) fulfilling any obligations of the Secretary with respect to loans guaranteed under this section, including the costs (as such term is defined in section 502 of the Congressional Budget Act of 1974) of such loans;

(B) paying taxes, insurance, prior liens, expenses necessary to make fiscal adjustment in connection with the application and transmittal of collections, and other expenses and advances to protect the Secretary for loans which are guaranteed under this section or held by the Secretary;

(C) acquiring such security property at foreclosure sales or otherwise;

(D) paying administrative expenses in connection with this section; and

(E) reasonable and necessary costs of rehabilitation and repair to properties that the Secretary holds or owns pursuant to this section.

(4) **INVESTMENT.**—Any amounts in the Guarantee Fund determined by the Secretary to be in excess of amounts currently required to carry out this section may be invested in obligations of the United States.

(5) **LIMITATION ON COMMITMENTS TO GUARANTEE LOANS AND MORTGAGES.**—

(A) **REQUIREMENT OF APPROPRIATIONS.**—The authority of the Secretary to enter into commitments to guarantee loans under this section shall be effective for any fiscal year only to the extent or in such amounts as are or have been provided in appropriations Acts for such fiscal year.

(B) **LIMITATIONS ON COSTS OF GUARANTEES.**—The authority of the Secretary to enter into commitments to guarantee loans under this section shall be effective for any fiscal year only to the extent that amounts in the Guarantee Fund are or have been made available in appropriation Acts to cover the costs (as such term is defined in section 502 of the Congressional Budget Act of 1974) of such loan guarantees for such fiscal year.

(C) **LIMITATION ON OUTSTANDING AGGREGATE PRINCIPAL AMOUNT.**—Subject to the limitations in subparagraphs (A) and (B), the Secretary may enter into commitments to guarantee loans under this section in each of fiscal years 1993 and 1994 with an aggregate outstanding principal

amount not exceeding such amount as may be provided in appropriation Acts for each such year.

(6) **LIABILITIES.**—All liabilities and obligations of the assets credited to the Guarantee Fund under paragraph (2)(A) shall be liabilities and obligations of the Guarantee Fund.

(7) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Guarantee Fund to carry out this section such sums as may be necessary for fiscal year 1993 and \$50,000,000 for fiscal year 1994.

Regulations.

(j) **REQUIREMENTS FOR STANDARD HOUSING.**—The Secretary shall, by regulation, establish housing safety and quality standards for use under this section. Such standards shall provide sufficient flexibility to permit the use of various designs and materials in housing acquired with loans guaranteed under this section. The standards shall require each dwelling unit in any housing so acquired to—

(1) be decent, safe, sanitary, and modest in size and design;  
(2) conform with applicable general construction standards for the region;

(3) contain a heating system that—

(A) has the capacity to maintain a minimum temperature in the dwelling of 65 degrees Fahrenheit during the coldest weather in the area;

(B) is safe to operate and maintain;

(C) delivers a uniform distribution of heat; and

(D) conforms to any applicable tribal heating code or, if there is no applicable tribal code, an appropriate county, State, or National code;

(4) contain a plumbing system that—

(A) uses a properly installed system of piping;

(B) includes a kitchen sink and a partitioned bathroom with lavatory, toilet, and bath or shower; and

(C) uses water supply, plumbing, and sewage disposal systems that conform to any applicable tribal code or, if there is no applicable tribal code, the minimum standards established by the applicable county or State;

(5) contain an electrical system using wiring and equipment properly installed to safely supply electrical energy for adequate lighting and for operation of appliances that conforms to any applicable tribal code or, if there is no applicable tribal code, an appropriate county, State, or National code;

(6) be not less than—

(A)(i) 570 square feet in size, if designed for a family of not more than 4 persons;

(ii) 850 square feet in size, if designed for a family of not less than 5 and not more than 7 persons; and

(iii) 1020 square feet in size, if designed for a family of not less than 8 persons, or

(B) the size provided under the applicable locally adopted standards for size of dwelling units; except that the Secretary, upon the request of a tribe or Indian housing authority, may waive the size requirements under this paragraph; and

(7) conform with the energy performance requirements for new construction established by the Secretary under section 526(a) of the National Housing Act.

(k) **DEFINITIONS.**—For purposes of this section:



(1) The term "family" means 1 or more persons maintaining a household, as the Secretary shall by regulation provide.

(2) The term "Guarantee Fund" means the Indian Housing Loan Guarantee Fund established under subsection (i).

(3) The term "Indian" means person recognized as being Indian or Alaska Native by an Indian tribe, the Federal Government, or any State.

(4) The term "Indian area" means the area within which an Indian housing authority is authorized to provide housing.

(5) The term "Indian housing authority" means any entity that—

(A) is authorized to engage in or assist in the development or operation of low-income housing for Indians; and

(B) is established—

(i) by exercise of the power of self-government of an Indian tribe independent of State law; or

(ii) by operation of State law providing specifically for housing authorities for Indians, including regional housing authorities in the State of Alaska.

(6) The term "Secretary" means the Secretary of Housing and Urban Development.

(7) The term "standard housing" means a dwelling unit or housing that complies with the requirements established under subsection (j).

(8) The term "tribe" means any tribe, band, pueblo, group, community, or nation of Indians or Alaska Natives.

(9) The term "trust land" means land title to which is held by the United States for the benefit of an Indian or Indian tribe or title to which is held by an Indian tribe subject to a restriction against alienation imposed by the United States.

#### SEC. 185. ASSISTANCE UNDER SECTION 8 FOR HOMEOWNERSHIP.

(a) **AUTHORITY.**—Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), is amended by adding at the end the following new subsection:

"(y) **HOMEOWNERSHIP OPTION.**—

"(1) **USE OF ASSISTANCE FOR HOMEOWNERSHIP.**—A family receiving tenant-based assistance under this section may receive assistance for occupancy of a dwelling owned by one or more members of the family if the family—

"(A) is a first-time homeowner;

"(B)(i) participates in the family self-sufficiency program under section 23 of the public housing agency providing the assistance; or

"(ii) demonstrates that the family has income from employment or other sources (other than public assistance), as determined in accordance with requirements of the Secretary, that is not less than twice the payment standard established by the public housing agency (or such other amount as may be established by the Secretary);

"(C) except as provided by the Secretary, demonstrates at the time the family initially receives tenant-based assistance under this subsection that one or more adult members of the family have achieved employment for the period as the Secretary shall require;

"(D) participates in a homeownership and housing counseling program provided by the agency; and

"(E) meets any other initial or continuing requirements established by the public housing agency in accordance with requirements established by the Secretary.

**"(2) MONTHLY ASSISTANCE PAYMENT.—**

**"(A) IN GENERAL.—**Notwithstanding any other provisions of this section governing determination of the amount of assistance payments under this section on behalf of a family, the monthly assistance payment for any family assisted under this subsection shall be the amount by which the fair market rental for the area established under subsection (c)(1) exceeds 30 percent of the family's monthly adjusted income; except that the monthly assistance payment shall not exceed the amount by which the monthly homeownership expenses, as determined in accordance with requirements established by the Secretary, exceeds 10 percent of the family's monthly income.

**"(B) EXCLUSION OF EQUITY FROM INCOME.—**For purposes of determining the monthly assistance payment for a family, the Secretary shall not include in family income an amount imputed from the equity of the family in a dwelling occupied by the family with assistance under this subsection.

**"(3) RECAPTURE OF CERTAIN AMOUNTS.—**Upon sale of the dwelling by the family, the Secretary shall recapture from any net proceeds the amount of additional assistance (as determined in accordance with requirements established by the Secretary) paid to or on behalf of the eligible family as a result of paragraph (2)(B).

**"(4) DOWNPAYMENT REQUIREMENT.—**Each public housing agency providing assistance under this subsection shall ensure that each family assisted shall provide from its own resources not less than 80 percent of any downpayment in connection with a loan made for the purchase of a dwelling. Such resources may include amounts from any escrow account for the family established under section 23(d). Not more than 20 percent of the downpayment may be provided from other sources, such as from nonprofit entities and programs of States and units of general local government.

**"(5) INELIGIBILITY UNDER OTHER PROGRAMS.—**A family may not receive assistance under this subsection during any period when assistance is being provided for the family under other Federal homeownership assistance programs, as determined by the Secretary, including assistance under the HOME Investment Partnerships Act, the Homeownership and Opportunity Through HOPE Act, title II of the Housing and Community Development Act of 1987, and section 502 of the Housing Act of 1949.

**"(6) INAPPLICABILITY OF CERTAIN PROVISIONS.—**Assistance under this subsection shall not be subject to the requirements of the following provisions:

**"(A)** Subsection (c)(3)(B) of this section.

**"(B)** Subsection (d)(1)(B)(i) of this section.

**"(C)** Any other provisions of this section governing maximum amounts payable to owners and amounts payable by assisted families.

**"(D)** Any other provisions of this section concerning contracts between public housing agencies and owners.

“(E) Any other provisions of this Act that are inconsistent with the provisions of this subsection.

“(7) REVERSION TO RENTAL STATUS.—

“(A) FHA-INSURED MORTGAGES.—If a family receiving assistance under this subsection for occupancy of a dwelling defaults under a mortgage for the dwelling insured by the Secretary under the National Housing Act, the family may not continue to receive rental assistance under this section unless the family (i) transfers to the Secretary marketable title to the dwelling, (ii) moves from the dwelling within the period established or approved by the Secretary, and (iii) agrees that any amounts the family is required to pay to reimburse the escrow account under section 23(d)(3) may be deducted by the public housing agency from the assistance payment otherwise payable on behalf of the family.

“(B) OTHER MORTGAGES.—If a family receiving assistance under this subsection defaults under a mortgage not insured under the National Housing Act, the family may not continue to receive rental assistance under this section unless it complies with requirements established by the Secretary.

“(C) ALL MORTGAGES.—A family receiving assistance under this subsection that defaults under a mortgage may not receive assistance under this subsection for occupancy of another dwelling owned by one or more members of the family.

“(8) DEFINITION OF FIRST-TIME HOMEOWNER.—For purposes of this subsection, the term ‘first-time homeowner’ means—

“(A) a family, no member of which has had a present ownership interest in a principal residence during the 3 years preceding the date on which the family initially receives assistance for homeownership under this subsection; and

“(B) any other family, as the Secretary may prescribe.”.

(b) FAMILY SELF-SUFFICIENCY PROGRAM.—Section 23(d) of the United States Housing Act of 1937 (42 U.S.C. 1437u) is amended by adding at the end the following new paragraph:

“(3) USE OF ESCROW SAVINGS ACCOUNTS FOR SECTION 8 HOMEOWNERSHIP.—Notwithstanding paragraph (3), a family that uses assistance under section 8(y) to purchase a dwelling may use up to 50 percent of the amount in its escrow account established under paragraph (3) for a downpayment on the dwelling. In addition, after the family purchases the dwelling, the family may use any amounts remaining in the escrow account to cover the costs of major repair and replacement needs of the dwelling. If a family defaults in connection with the loan to purchase a dwelling and the mortgage is foreclosed, the remaining amounts in the escrow account shall be recaptured by the Secretary.”.

(c) USE OF FHA INSURANCE WITH SECTION 8 HOMEOWNER-SHIP.—

(1) IN GENERAL.—Section 203 of the National Housing Act (12 U.S.C. 1709) is amended—

(A) in the matter preceding subparagraph (A) in subsection (c)(2), by inserting “or of the General Insurance Fund pursuant to subsection (v)” after “Fund”; and

(B) by adding at the end the following new subsection:  
 “(v) Notwithstanding section 202 of this title, the insurance of a mortgage under this section in connection with the assistance provided under section 8(y) of the United States Housing Act of 1937 shall be the obligation of the General Insurance Fund created pursuant to section 519 of this title. The provisions of subsections (a) through (h), (j), and (k) of section 204 shall apply to such mortgages, except that (1) all references in section 204 to the Mutual Mortgage Insurance Fund or the Fund shall be construed to refer to the General Insurance Fund, and (2) any excess amounts described in section 204(f)(1) shall be retained by the Secretary and credited to the General Insurance Fund.”

(2) GENERAL INSURANCE FUND.—Section 519(e) of the National Housing Act (12 U.S.C. 1735c(e)) is amended by inserting after “203(b)” the following: “(except as provided in section 203(v))”.

(3) MORTGAGE INSURANCE TRANSITION PREMIUMS.—The matter preceding paragraph (1) in section 2103(b) of the Omnibus Budget Reconciliation Act of 1990 (12 U.S.C. 1709 note) is amended by inserting “or of the General Insurance Fund pursuant to section 203(v) of the National Housing Act” after “Fund”.

(4) CONFORMING AMENDMENT.—The third sentence of section 3(a)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437a(a)(1)) is amended by inserting “or (y) or paying rent under section 8(c)(3)(B)” after “section 8(o)”.

Disadvantaged.  
 42 USC 12898a.

#### **SEC. 186. ENTERPRISE ZONE HOMEOWNERSHIP OPPORTUNITY GRANTS.**

(a) STATEMENT OF PURPOSE.—It is the purpose of this section—

(1) to encourage homeownership by families in the United States who are not otherwise able to afford homeownership;

(2) to encourage the redevelopment of economically depressed areas; and

(3) to provide better housing opportunities in federally approved and equivalent State-approved enterprise zones.

(b) DEFINITIONS.—For purposes of this section the following definitions shall apply:

(1) HOME.—The term “home” means any 1- to 4-family dwelling. Such term includes any dwelling unit in a condominium project or cooperative project consisting of not more than 4 dwelling units, any town house, and any manufactured home.

(2) METROPOLITAN STATISTICAL AREA.—The term “metropolitan statistical area” means a metropolitan statistical area as established by the Office of Management and Budget.

(3) NONPROFIT ORGANIZATION.—The term “nonprofit organization” means a private nonprofit corporation, or other private nonprofit legal entity, that is approved by the Secretary as to financial responsibility.

(4) SECRETARY.—The term “Secretary” means the Secretary of Housing and Urban Development.

(5) STATE.—The term “State” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(6) UNIT OF GENERAL LOCAL GOVERNMENT.—The term “unit of general local government” means any borough, city, county, parish, town, township, village, or other general purpose political subdivision of a State.

(c) ASSISTANCE TO NONPROFIT ORGANIZATIONS.—

(1) IN GENERAL.—The Secretary may provide assistance to nonprofit organizations to carry out enterprise zone homeownership opportunity programs to promote homeownership in federally approved and equivalent State-approved enterprise zones in accordance with the provisions of this section. Such assistance shall be made in the form of grants.

(2) APPLICATIONS.—Applications for assistance under this section shall be made in such form, and in accordance with such procedures, as the Secretary may prescribe.

(d) ELIGIBLE USES OF ASSISTANCE.—

(1) IN GENERAL.—Any nonprofit organization receiving assistance under this section shall use such assistance to provide loans to families purchasing homes constructed or rehabilitated in accordance with an enterprise zone homeownership opportunity program approved under this section.

(2) SPECIFIC REQUIREMENTS.—Each loan made to a family under this subsection shall—

(A) be secured by a second mortgage held by the Secretary on the property involved;

(B) be in an amount not exceeding \$15,000;

(C) bear no interest; and

(D) be repayable to the Secretary upon the sales, lease, or other transfer of such property.

(e) PROGRAM REQUIREMENTS.—

(1) IN GENERAL.—Assistance provided under this section may be used only in connection with an enterprise zone homeownership opportunity program of construction or rehabilitation of homes.

(2) FAMILY NEED.—Each family purchasing a home under this section shall—

(A) have a family income on the date of such purchase that is not more than the median income for a family of 4 persons (adjusted for family size) in the metropolitan statistical area in which a federally approved or equivalent State-approved enterprise zone is located; and

(B) not have owned a home during the 3-year period preceding such purchase.

(3) DOWNPAYMENT.—Each family purchasing a home under this section shall make a downpayment of not less than 5 percent of the sale price of such home.

(4) LEASING PROHIBITION.—No family purchasing a home under this section may lease such home.

(f) TERMS AND CONDITIONS OF ASSISTANCE.—

(1) LOCAL CONSULTATION.—No proposed enterprise zone homeownership opportunity program may be approved by the Secretary under this section unless the applicant involved demonstrates to the satisfaction of the Secretary that—

(A) it has consulted with and received the support of residents of the neighborhood in which such program is to be located; and

(B) it has the approval of each unit of general local government in which such program is to be located.

(2) **PROGRAM SCHEDULE.**—Each applicant for assistance under this section shall submit to the Secretary an estimated schedule for completion of its proposed enterprise zone homeownership opportunity program, which schedule shall have been agreed to by each unit of general local government in which such program is to be located.

(3) **LOCATION.**—All homes constructed or rehabilitated under such program will be located in federally approved or equivalent State-approved enterprise zones.

(4) **SALES CONTRACTS.**—Sales contracts entered into under such program will contain provisions requiring repayment of any loan made under this section upon the sale or other transfer of the home involved, unless the Secretary approves a transfer of such home without repayment (in which case the second mortgage held by the Secretary on such home shall remain in force until such loan is fully repaid).

(g) **PROGRAM SELECTION CRITERIA.**—

(1) **IN GENERAL.**—In selecting enterprise zone homeownership opportunity programs for assistance under this section from among eligible programs, the Secretary shall make such selection on the basis of the extent to which—

(A) non-Federal public or private entities will contribute land necessary to make each program feasible;

(B) non-Federal public and private financial or other contributions (including tax abatements, waivers of fees related to development, waivers of construction, development, or zoning requirements, and direct financial contributions) will reduce the cost of home constructed or rehabilitated under each program;

(C) each program will produce the greatest number of units for the least amount of assistance provided under this section, taking into consideration the cost differences among different market areas; and

(D) each program provides for the involvement of local residents in the planning, and construction or rehabilitation, of homes.

(2) **EXCEPTION.**—To the extent that non-Federal public entities are prohibited by the law of any State from making any form of contribution described in subparagraph (A) or (B) of paragraph (1), the Secretary shall not consider such form of contribution in evaluating such program.

(h) **REGULATIONS.**—Not later than 180 days after the date of enactment of this section, the Secretary shall issue final regulations to carry out the provisions of this title. Any such regulations shall be issued in accordance with section 553 of title 5, United States Code, notwithstanding the provisions of subsection (a)(2) of such section.

(i) **FUNDING.**—There are authorized to be appropriated to carry out this section \$30,000,000 in each of fiscal years 1993 and 1994.

Appropriation  
authorization.

## Subtitle F—Implementation

Regulations.  
42 USC 1437a  
note.

### SEC. 191. IMPLEMENTATION.

The Secretary of Housing and Urban Development shall issue any final regulations necessary to implement the provisions of this title and the amendments made by this title not later than the

expiration of the 180-day period beginning on the date of the enactment of this Act, except as expressly provided otherwise in this title and the amendments made by this title. Such regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section).

## TITLE II—HOME INVESTMENT PARTNERSHIPS

### SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

Section 205 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12724) is amended to read as follows:

#### “SEC. 205. AUTHORIZATION.

“There are authorized to be appropriated to carry out this title \$2,086,000,000 for fiscal year 1993, and \$2,173,612,000 for fiscal year 1994, of which—

“(1) not more than \$14,000,000 for fiscal year 1993, and \$14,000,000 for fiscal year 1994, shall be for community housing partnership activities authorized under section 233; and

“(2) not more than \$11,000,000 for fiscal year 1993, and \$11,000,000 for fiscal year 1994, shall be for activities in support of State and local housing strategies authorized under subtitle C.”.

### SEC. 202. HOME PROGRAM THRESHOLDS.

(a) PARTICIPATING JURISDICTIONS.—Section 216 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12746) is amended—

(1) in paragraph (3), by striking “A jurisdiction” and inserting “Except as provided in paragraph (10), a jurisdiction”;

(2) in paragraph (9)(B), by inserting “, except as provided in paragraph (10)” after “in any 1 year”; and

(3) by adding at the end the following:

“(10) THRESHOLD REDUCTION.—If the amount appropriated pursuant to section 205 for any fiscal year is less than \$1,500,000,000, then this section shall be applied during that year—

“(A) by substituting ‘\$500,000’ for ‘\$750,000’ both places it appears in paragraph (3); and

“(B) by substituting ‘\$500,000’, ‘\$410,000’, and ‘\$335,000’ for ‘\$750,000’, ‘\$625,000’, and ‘\$500,000’, respectively, where they appear in paragraph (9).”.

(b) SUPPLEMENTAL ALLOCATION.—Section 217(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12747(b)) is amended—

(1) in paragraph (3), by inserting “, except as provided in paragraph (4)” before the period at the end of the second sentence; and

(2) by adding at the end the following:

“(4) THRESHOLD REDUCTION.—If the amount appropriated pursuant to section 205 for any fiscal year is less than \$1,500,000,000, then this section shall be applied during that

42 USC 12746  
note.

year by substituting '\$335,000' for '\$500,000' where it appears in paragraph (3)."

(c) **APPLICABILITY.**—Notwithstanding any other provision of law, the grant thresholds provided for in section 216, as amended by this section, and the grant thresholds provided for in section 217(b) of the Cranston-Gonzalez National Affordable Housing Act, as amended by this section, shall apply.

#### SEC. 203. ELIMINATION OF RESTRICTIONS ON NEW CONSTRUCTION.

(a) **ELIGIBLE USES OF INVESTMENT.**—Section 212(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12742(a)) is amended—

(1) in the last sentence of paragraph (2), by striking "under paragraph (3) of this subsection or";

(2) by striking paragraph (3); and

(3) by redesignating paragraph (4) as paragraph (3).

(b) **FORMULA ALLOCATION.**—Section 217(b)(1) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12747(b)(1)) is amended—

(1) by striking subparagraph (A);

(2) in subparagraph (D), by striking "Except as provided in subparagraph (A), the basic formula established under subparagraph (B)" and inserting "The basic formula established under subparagraph (A)";

(3) in subparagraph (E), by striking "formulas in subparagraph (B)" and inserting "formula in subparagraph (A)";

(4) in subparagraph (F)—

(A) in the first sentence, by striking "subparagraph (B)" and inserting "subparagraph (A)"; and

(B) by striking the second sentence;

(5) in subparagraph (G), by striking "formulas in subparagraphs (A) and (B)" and inserting "formula in subparagraph (A)"; and

(6) by redesignating subparagraphs (B) through (G) (as amended by this paragraph) as subparagraphs (A) through (F), respectively.

(c) **CONFORMING AMENDMENT.**—Section 218(g) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12748(g)) is amended by striking "Except as provided in section 217(b)(1)(A)(ii), if" and inserting "If".

#### SEC. 204. POLICIES AND PREFERENCE RULES; USE OF TENANT-BASED RENTAL ASSISTANCE AMOUNTS FOR SECURITY DEPOSITS.

(a) **POLICIES AND PREFERENCE RULES.**—Section 212(a)(3) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12742(a)(3)), as so redesignated by section 203(a)(3) of this Act, is amended by adding at the end the following:

"(E) **SECURITY DEPOSIT ASSISTANCE.**—A jurisdiction using funds provided under this subtitle for tenant-based rental assistance may use such funds to provide loans or grants to very low- and low-income families for security deposits for rental of dwelling units. Assistance under this subparagraph does not preclude assistance under any other provision of this paragraph."

(b) **SECURITY DEPOSITS.**—Section 212(a)(3)(A) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12742(a)(4)(A)), as so redesignated by section 203(a)(3) of this Act, is amended by striking clause (ii) and inserting the following:



“(ii) the tenant-based rental assistance is provided in accordance with written tenant selection policies and criteria that are consistent with the purposes of providing housing to very low- and low-income families and are reasonably related to preference rules established under section 6(c)(4)(A) of the Housing Act of 1937.”

#### SEC. 205. USE OF HOME FUNDS FOR HOMELESS ASSISTANCE.

Section 212(a)(1) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12742(a)(1)) is amended by adding at the end the following: “For the purpose of this subtitle, the term ‘affordable housing’ includes permanent housing for disabled homeless persons, transitional housing, and single room occupancy housing.”

#### SEC. 206. PER UNIT COST LIMITS.

Section 212(d)(1) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12742(d)(1)) is amended by inserting after the first sentence the following: “For multifamily housing, such limits shall not be less than the per unit dollar amount limitations set forth in section 221(d)(3)(ii) of the National Housing Act, as such limitations may be adjusted in accordance therewith, except that for purposes of this subsection the Secretary shall, by regulation, increase the per unit dollar amount limitations in any geographical area by an amount, not to exceed 140 percent, that equals the amount by which the costs of multifamily housing construction in the area exceed the national average of such costs.”

Regulations.

#### SEC. 207. ADMINISTRATIVE COSTS AS ELIGIBLE USE OF INVESTMENT.

(a) HOUSING USES.—Section 212(a)(1) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12742(a)(1)) is amended by inserting after “organizations,” the following: “to provide for the payment of reasonable administrative and planning costs, to provide for the payment of operating expenses of community housing development organizations,”.

(b) ELIGIBLE USE.—Section 212 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12742) is amended—

(1) in subsection (c)(1), by inserting “that exceed the amount specified under subsection (c)” before the comma at the end;

(2) by redesignating subsections (c), (d) (as amended by the preceding provisions of this Act), and (e) as subsections (d), (e), and (f), respectively; and

(3) by inserting after subsection (b) the following:

“(c) ADMINISTRATIVE COSTS.—In each fiscal year, each participating jurisdiction may use not more than 10 percent of the funds made available under this subtitle to the jurisdiction for such year for any administrative and planning costs of the jurisdiction in carrying out this subtitle, including the costs of the salaries of persons engaged in administering and managing activities assisted with funds made available under this subtitle.”

(c) RECOGNITION OF MATCH.—Section 220 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12750) is amended—

(1) in subsection (b)(2), by striking “shall” and all that follows and inserting “may not be recognized for purposes of subsection (a).”; and

(2) in subsection (c)—

(A) by striking paragraph (2); and

(B) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively.

(d) **LIMITATION ON ADMINISTRATIVE COSTS.**—Section 212 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12742) is amended by adding at the end the following:

“(g) **LIMITATION ON OPERATING ASSISTANCE.**—A participating jurisdiction may not use more than 5 percent of its allocation under this subtitle for the payment of operating expenses for community housing development organizations.”.

#### **SEC. 208. AFFORDABLE HOUSING.**

(a) **RENT CALCULATIONS.**—Section 215(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12745(a)) is amended—

(1) in paragraph (1)(A) by striking “smaller and larger families” and inserting “number of bedrooms in the unit”;

(2) in paragraph (3), by adding at the end the following: “The preceding sentence shall not apply with respect to funds made available under this Act for units that have been allocated a low-income housing tax credit by a housing credit agency pursuant to section 42 of the Internal Revenue Code 1986.”; and

(3) in the second sentence of paragraph (3), by striking “not less than” and inserting “the lesser of the amount payable by the tenant under State or local law or”.

(b) **EXCEPTION TO TERMINATION RULE.**—Section 215(a)(1)(E) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12745(a)(1)(E)) is amended by inserting after “Act” the following: “, except upon a foreclosure by a lender (or upon other transfer in lieu of foreclosure) if such action (i) recognizes any contractual or legal rights of public agencies, nonprofit sponsors, or others to take actions that would avoid termination of low-income affordability in the case of foreclosure or transfer in lieu of foreclosure, and (ii) is not for the purpose of avoiding low income affordability restrictions, as determined by the Secretary”.

#### **SEC. 209. HOMEOWNERSHIP RESALE RESTRICTIONS.**

Section 215(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12745(b)) is amended by striking paragraph (4) and inserting the following:

“(4) is subject to resale restrictions that are established by the participating jurisdiction and determined by the Secretary to be appropriate to—

“(A) allow for subsequent purchase of the property only by persons who meet the qualifications specified under paragraph (2), at a price which will—

“(i) provide the owner with a fair return on investment, including any improvements, and

“(ii) ensure that the housing will remain affordable to a reasonable range of low-income homebuyers; or

“(B) recapture the investment provided under this title in order to assist other persons in accordance with the requirements of this subsection, except where there are no net proceeds or where the net proceeds are insufficient to repay the full amount of the assistance; and”.

**SEC. 210. MATCHING REQUIREMENTS.**

(a) **TIERED CONTRIBUTION.**—Section 220(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12750(a)) is amended—

(1) in paragraph (1)—

(A) by striking “and” and inserting a comma;

(B) by inserting “and substantial rehabilitation” after “rehabilitation”; and

(C) by inserting “and” after the semicolon;

(2) in paragraph (2)—

(A) by striking “33” and inserting “30”; and

(B) by striking “substantial rehabilitation; and” and inserting “new construction.”;

(3) by striking paragraph (3); and

(4) in the matter preceding paragraph (1), by striking “affordable housing assisted under this title” and inserting “housing that qualifies as affordable housing under this title”.

(b) **FORM.**—Section 220(c) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12750(c)) is amended—

(1) by striking “and” at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting a semicolon; and

(3) by adding at the end the following:

“(6) up to—

“(A) 50 percent of proceeds from bond financing validly issued by a State or local government, agency or instrumentality thereof, or political subdivision thereof, and repayable with revenues derived from a multifamily affordable housing project financed, and

“(B) 25 percent of proceeds from bond financing validly issued by a State or local government, agency or instrumentality thereof, or political subdivision thereof, and repayable with revenues derived from a single-family project financed, but not more than 25 percent of the contribution required under subsection (a) may be derived from these sources;

“(7) the reasonable value of any site-preparation and construction materials and any donated or voluntary labor in connection with the site-preparation for, or construction or rehabilitation of, affordable housing; and

“(8) such other contributions to affordable housing as the Secretary considers appropriate.”.

(c) **REDUCTION OF REQUIREMENT.**—Section 220 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12750) is amended by striking subsection (d) and inserting:

“(d) **REDUCTION OF REQUIREMENT.**—

“(1) **IN GENERAL.**—The Secretary shall reduce the matching requirement under subsection (a) with respect to any funds drawn from a jurisdiction’s HOME Investment Trust Fund Account during a fiscal year by—

“(A) 50 percent for a jurisdiction that certifies that it is in fiscal distress; and

“(B) 100 percent for a jurisdiction that certifies that it is in severe fiscal distress.

“(2) **DEFINITIONS.**—For purposes of this section—

“(A) ‘fiscal distress’ means a jurisdiction other than a State that satisfies 1 of the distress criteria set forth in paragraph (3); and

"(B) 'severe fiscal distress' means a jurisdiction other than a State that satisfies both of the distress criteria set forth in paragraph (3).

"(3) DISTRESS CRITERIA.—For purposes of a jurisdiction other than a State certifying that it is distressed, the following criteria shall apply:

"(A) POVERTY RATE.—The average poverty rate in the jurisdiction for the calendar year immediately preceding the year in which its fiscal year begins was equal to or greater than 125 percent of the average national poverty rate during such calendar year (as determined according to information of the Bureau of the Census).

"(B) PER CAPITA INCOME.—The average per capita income in the jurisdiction for the calendar year immediately preceding the year in which its fiscal year begins was less than 75 percent of the average national per capita income during such calendar year (as determined according to information of the Bureau of the Census).

"(4) STATES.—In determining the degree to which a jurisdiction that is a State is distressed, the Secretary shall take into consideration the State's fiscal capacity and expenditure needs as determined by a national organization which compiles the relevant data.

"(5) WAIVER IN DISASTER AREAS.—If a participating jurisdiction is located in an area in which a declaration of a disaster pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act is in effect for any part of a fiscal year, the Secretary may reduce the matching requirement for that fiscal year under subsection (a) with respect to any funds drawn from a jurisdiction's HOME Investment Trust Fund Account during that fiscal year by up to 100 percent."

(d) APPLICABILITY.—The amendments made by this section shall apply with respect to fiscal year 1993 and each fiscal year thereafter.

42 USC 12750  
note.

#### SEC. 211. ASSISTANCE FOR INSULAR AREAS.

(a) REPEAL OF AMENDMENTS MADE BY PUBLIC LAW 102-230.—

(1) DEFINITIONS.—Section 104 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704) is amended to read as if the amendments made by section 2 of Public Law 102-230 (105 Stat. 1720) had not been enacted.

(2) ALLOCATION OF RESOURCES.—Section 217(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12747(a)) is amended—

(A) by striking the first sentence of paragraph (1) and inserting the following: "After reserving amounts under paragraph (2) for Indian tribes and after reserving amounts under paragraph (3) for the insular areas, the Secretary shall allocate funds approved in an appropriation Act to carry out this title by formula as provided in subsection (b).";

(B) by striking paragraph (3) (as added by Public Law 102-229; 105 Stat. 1709);

(C) by striking paragraph (3) (as added by Public Law 102-230; 105 Stat. 1720); and

(D) by adding after paragraph (2) the following:

"(3) INSULAR AREAS.—For each fiscal year, of any amounts approved in appropriation Acts to carry out this title, the Secretary shall reserve for grants to the insular areas the greater of (A) \$750,000, or (B) 0.2 percent of the amounts appropriated under such Acts. The Secretary shall provide for the distribution of amounts reserved under this paragraph among the insular areas pursuant to specific criteria for such distribution, which shall be contained in a regulation issued by the Secretary."

Regulations.

(3) EXPEDITED ISSUANCE OF REGULATION.—The regulation referred to in the amendment made by paragraph (2)(D) shall take effect not later than the expiration of the 90-day period beginning on the date of the enactment of this Act. The regulation shall not be subject to the requirements of subsections (b) and (c) of section 553 of title 5, United States Code, or section 7(o) of the Department of Housing and Urban Development Act.

Effective date.  
42 USC 12747  
note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to fiscal year 1993 and thereafter.

42 USC 12704  
note.

#### SEC. 212. COMMUNITY HOUSING PRODUCTION SET-ASIDE.

(a) EXTENSION OF PERIOD.—Section 231 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12771) is amended by striking "18 months" each place it appears in subsections (a) and (b) and inserting "24 months".

(b) ALLOCATION FOR USE BY NONPROFIT ORGANIZATION.—Section 231(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12771(a)) is amended by inserting after the second sentence the following: "If during the first 24 months of its participation under this title, a participating jurisdiction is unable to identify a sufficient number of capable community housing development organizations, then up to 20 percent of the funds allocated to that jurisdiction under this section, but not to exceed \$150,000, may be made available to carry out activities that develop the capacity of community housing development organizations in that jurisdiction."

(c) OTHER REQUIREMENTS.—Section 234(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12774(b)) is amended—

- (1) by striking " , together with other Federal assistance,";
- and
- (2) by inserting before the period the following: "or \$50,000 annually, whichever is greater".

#### SEC. 213. HOUSING EDUCATION AND ORGANIZATIONAL SUPPORT FOR COMMUNITY LAND TRUSTS.

(a) COMMUNITY LAND TRUSTS.—Section 233 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12773) is amended—

- (1) in subsection (a)(2), by inserting " , including community land trusts," after "organizations";

- (2) in subsection (b), by adding at the end the following:

"(6) COMMUNITY LAND TRUSTS.—Organizational support, technical assistance, education, training, and continuing support under this subsection may be made available to community land trusts (as such term is defined in subsection (f)) and to community groups for the establishment of community land trusts."; and

(3) by adding at the end the following:

"(f) **DEFINITION OF COMMUNITY LAND TRUST.**—For purposes of this section, the term 'community land trust' means a community housing development organization (except that the requirements under subparagraphs (C) and (D) of section 104(6) shall not apply for purposes of this subsection)—

"(1) that is not sponsored by a for-profit organization;

"(2) that is established to carry out the activities under paragraph (3);

"(3) that—

"(A) acquires parcels of land, held in perpetuity, primarily for conveyance under long-term ground leases;

"(B) transfers ownership of any structural improvements located on such leased parcels to the lessees; and

"(C) retains a preemptive option to purchase any such structural improvement at a price determined by formula that is designed to ensure that the improvement remains affordable to low- and moderate-income families in perpetuity;

"(4) whose corporate membership that is open to any adult resident of a particular geographic area specified in the bylaws of the organization; and

"(5) whose board of directors—

"(A) includes a majority of members who are elected by the corporate membership; and

"(B) is composed of equal numbers of (i) lessees pursuant to paragraph (3)(B), (ii) corporate members who are not lessees, and (iii) any other category of persons described in the bylaws of the organization."

(b) **WOMEN IN HOMEBUILDING.**—Section 233 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12773), as amended by subsection (a) of this section, is further amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "and" at the end;

(B) in paragraph (2), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(3) to achieve the purposes under paragraphs (1) and (2) by helping women who reside in low- and moderate-income neighborhoods rehabilitate and construct housing in the neighborhoods."

(2) in subsection (b), by adding after paragraph (6) (as added by subsection (a)(2) of this section) the following:

"(7) **FACILITATING WOMEN IN HOMEBUILDING PROFESSIONS.**—Technical assistance may be made available to businesses, unions, and organizations involved in construction and rehabilitation of housing in low- and moderate-income areas to assist women residing in the area to obtain jobs involving such activities, which may include facilitating access by such women to, and providing, apprenticeship and other training programs regarding nontraditional skills, recruiting women to participate in such programs, providing continuing support for women at job sites, counseling and educating businesses regarding suitable work environments for women, providing information to such women regarding opportunities for establishing small housing construction and rehabilitation businesses, and providing materials and tools for training such women (in an

amount not exceeding 10 percent of any assistance provided under this paragraph). The Secretary shall give priority under this paragraph to providing technical assistance for organizations rehabilitating single family or multifamily housing owned or controlled by the Secretary pursuant to title II of the National Housing Act and which have women members in occupations in which women constitute 25 percent or less of the total number of workers in the occupation (in this section referred to as 'nontraditional occupations').";

(3) in subsection (c)(1)—

(A) in subparagraph (C), by striking "and" at the end;

(B) in subparagraph (D), by striking "or" at the end and inserting "and"; and

(C) by adding at the end the following:

"(E) in the case of activities under subsection (b)(7), is a community-based organization (as such term is defined in section 4 of the Job Training Partnership Act) or public housing agency, which has demonstrated experience in preparing women for apprenticeship training in construction or administering programs for training women for construction or other nontraditional occupations (and such organizations may use assistance for activities under such subsection to employ women in housing construction and rehabilitation activities to the extent that the organization has the capacity to conduct such activities); or"; and

(4) by adding at the end of subsection (e) the following:

"The Secretary shall provide assistance under this section, to the extent applications are submitted and approved, to contractors in each of the geographic regions having a regional office of the Department of Housing and Urban Development."

#### SEC. 214. LAND BANK REDEVELOPMENT.

(a) PRIORITIES FOR CAPACITY DEVELOPMENT.—Section 242 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12782) is amended—

(1) in paragraph (4), by striking "and" at the end;

(2) in paragraph (5), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(6) facilitate the establishment and efficient operation of land bank programs, under which title to vacant and abandoned parcels of real estate located in or causing blighted neighborhoods is cleared for use consistent with the purposes of this title."

#### SEC. 215. RESEARCH IN PROVIDING AFFORDABLE HOUSING THROUGH INNOVATIVE BUILDING TECHNIQUES AND TECHNOLOGY.

The second sentence of section 244 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12784) is amended by inserting before the period at the end the following: ", through the use of cost-saving innovative building technology and construction techniques".

**SEC. 216. USE OF INNOVATIVE BUILDING TECHNOLOGIES TO PROVIDE COST-SAVING HOUSING OPPORTUNITIES.**

Subtitle D of title II of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12801 et seq.) is amended by adding at the end the following:

42 USC 12810.

**“SEC. 260. COST-SAVING BUILDING TECHNOLOGIES AND CONSTRUCTION TECHNIQUES.**

“(a) **IN GENERAL.**—The Secretary shall make available a model program to utilize cost-saving building technologies and construction techniques for purposes of providing homeownership and rental opportunities under this title.

“(b) **SELECTION CRITERIA.**—The Secretary shall establish criteria for participating jurisdictions to select projects for assistance under the model program which may include—

“(1) the extent to which innovative, cost-saving building and construction technologies are utilized;

“(2) the extent to which innovative, cost-saving construction techniques are utilized;

“(3) the extent to which units will be made available to low-income families and individuals;

“(4) the extent to which non-Federal public or private assistance is utilized; and

“(5) any other factor, determined by the Secretary to be appropriate.

“(c) **GUIDELINES.**—The Secretary shall publish guidelines for the model program under this section not later than 180 days after the date of the enactment of the Housing and Community Development Act of 1992.

“(d) **REPORT.**—The Secretary shall submit a biennial report to the Congress on the utilization of the model program under this section.”.

**SEC. 217. DEFINITION OF COMMUNITY HOUSING DEVELOPMENT ORGANIZATION.**

(a) **IN GENERAL.**—Section 104(6) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704(6)) is amended by adding at the end the following new flush material:

“In the case of an organization serving more than one county, the Secretary may not require that such organization, to be considered a community housing development organization for purposes of this Act, include as members on the organization’s governing board low-income persons residing in each county served.”.

42 USC 12704  
note.

(b) **TRANSITION RULE.**—For the purposes of determining compliance with the requirements of section 104(6) of the Cranston-Gonzalez National Affordable Housing Act, the Secretary of Housing and Urban Development may provide an exception for organizations that meet the definition of community housing development organization, except for significant representation of low-income community residents on the board, if such organization fulfills such requirement within 6 months of receiving funds under title II of such Act or September 30, 1993, whichever is sooner.

**SEC. 218. INCLUSION OF ECHO HOUSING IN DEFINITION OF HOUSING.**

Section 104(8) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704(8)) is amended by inserting before the period at the end the following: “and elder cottage housing



opportunity units that are small, free-standing, barrier-free, energy-efficient, removable, and designed to be installed adjacent to existing 1- to 4-family dwellings”.

**SEC. 219. ELIGIBILITY OF MANUFACTURED HOME OWNERS AS FIRST-TIME HOMEBUYERS.**

Section 104(14) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704(14)) is amended—

- (1) in subparagraph (A), by striking “and” at the end;
- (2) in subparagraph (B), by striking the period at the end and inserting “; and”; and

- (3) by adding at the end the following new subparagraph:

“(C) an individual shall not be excluded from consideration as a first-time homebuyer under this paragraph on the basis that the individual owns or owned, as a principal residence during such 3-year period, a dwelling unit whose structure is—

“(i) not permanently affixed to a permanent foundation in accordance with local or other applicable regulations, or

“(ii) not in compliance with State, local, or model building codes, or other applicable codes, and cannot be brought into compliance with such codes for less than the cost of constructing a permanent structure.”.

**SEC. 220. ELIGIBILITY FOR ASSISTANCE AND CONTENTS OF STRATEGIES.**

(a) **HOMELESSNESS INFORMATION.**—Section 105(b)(2) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705(b)(2)) is amended—

- (1) by inserting “, including rural homelessness,” after “homelessness” the first place it appears; and

- (2) by inserting “including tabular representation of such information,” after “with homelessness,”.

(b) **ANTIDISPLACEMENT PLAN AND ANTIPOVERTY STRATEGY.**—Section 105(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705(b)) is amended—

- (1) by striking paragraph (14) and inserting the following:  
“(14) include a certification that the jurisdiction has in effect and is following a residential antidisplacement and relocation assistance plan that, in any case of any such displacement in connection with any activity assisted with amounts provided under title II, requires the same actions and provides the same rights as required and provided under a residential antidisplacement and relocation assistance plan under section 104(d) of the Housing and Community Development Act of 1974 in the event of displacement in connection with a development project assisted under section 106 or 119 of such Act;”.

- (2) in paragraph (15), by striking the period at the end and inserting “; and” and

- (3) by adding at the end the following:

“(16) for any housing strategy submitted for fiscal year 1994 or any fiscal year thereafter and taking into consideration factors over which the jurisdiction has control, describe the jurisdiction’s goals, programs, and policies for reducing the number of households with incomes below the poverty line (as defined by the Office of Management and Budget and revised annually), and, in consultation with other appropriate

public and private agencies, state how the jurisdiction's goals, programs, and policies for producing and preserving affordable housing set forth in the housing strategy will be coordinated with other programs and services for which the jurisdiction is responsible and the extent to which they will reduce (or assist in reducing) the number of households with incomes below the poverty line; and".

(c) **LINKAGE BETWEEN HOUSING NEED AND ALLOCATION OF HOUSING RESOURCES.**—Section 105(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705(b)) is amended—

(1) by redesignating paragraphs (8) through (16) as paragraphs (9) through (17), respectively; and

(2) by inserting after paragraph (7) the following:

"(8) describe how the jurisdiction's plan will address the housing needs identified pursuant to subparagraphs (1) and (2), describe the reasons for allocation priorities, and identify any obstacles to addressing underserved needs;"

#### **SEC. 221. LOCATION OF ACTIVITIES.**

42 USC 12748.

Section 218(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12748a) is amended by inserting after "boundaries" the following: "or within the boundaries of contiguous jurisdictions in joint projects which serve residents from both jurisdictions".

42 USC 12704  
note.

#### **SEC. 222. REGULATIONS.**

The Secretary of Housing and Urban Development shall issue any final regulations necessary to implement the provisions of this title and the amendments made by this title not later than the expiration of the 180-day period beginning on the date of the enactment of this Act, except as expressly provided otherwise in this title and the amendments made by this title. Such regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section).

42 USC 12704  
note.

#### **SEC. 223. RETROACTIVE APPLICATION OF HOME AMENDMENTS.**

The amendments made by this title shall apply to unexpended funds allocated under title II of the Cranston-Gonzalez National Affordable Housing Act in fiscal year 1992, except as otherwise specifically provided.

## **TITLE III—PRESERVATION OF LOW-INCOME HOUSING**

### **Subtitle A—Prepayment of Mortgages Insured Under National Housing Act**

12 USC 4124.

#### **SEC. 301. AUTHORIZATION OF APPROPRIATIONS.**

Section 234 of the Housing and Community Development Act of 1987 (12 U.S.C. 4124) is amended to read as follows:

#### **"SEC. 234. AUTHORIZATION OF APPROPRIATIONS.**

"(a) **IN GENERAL.**—There are authorized to be appropriated for assistance and incentives authorized under this subtitle

\$638,252,784 for fiscal year 1993 and \$665,059,401 for fiscal year 1994.

“(b) GRANTS.—Subject to approval in appropriation Acts, not more than \$50,000,000 of the amounts made available under subsection (a) for fiscal year 1993, and not more than \$50,000,000 of the amounts made available under subsection (a) for fiscal year 1994, shall be available for grants under section 221(d)(2).”.

#### SEC. 302. GUIDELINES FOR APPRAISALS OF PRESERVATION VALUE.

The first sentence of section 213(c) of the Housing and Community Development Act of 1987 (12 U.S.C. 4103(c)) is amended by inserting before “and costs” the following: “simultaneous termination of any Federal rental assistance,”.

#### SEC. 303. SECOND NOTICE OF INTENT.

Section 216(d) of the Housing and Community Development Act of 1987 (12 U.S.C. 4106(d)) is amended by adding at the end the following new paragraph:

“(3) FILING WITH THE STATE OR LOCAL GOVERNMENT, TENANTS, AND MORTGAGEE.—Upon filing a second notice of intent under this subsection, the owner shall simultaneously file such notice of the intent with the chief executive officer of the appropriate State or local government for the jurisdiction within which the housing is located and with the mortgagee, and shall inform the tenants of the housing of the filing.”.

#### SEC. 304. PLAN OF ACTION.

(a) SUPPORTING DOCUMENTATION REGARDING PLAN OF ACTION.—Section 217(a)(2) of the Housing and Community Development Act of 1987 (12 U.S.C. 4107(a)(2)) is amended by inserting after the second sentence the following new sentence: “Each owner and the Secretary shall also, upon request, make available to the tenants of the housing and to the office of the chief executive officer of the appropriate State or local government for the jurisdiction within which the housing is located all documentation supporting the plan of action, but not including any information that the Secretary determines is proprietary information.”.

(b) SUPPORTING DOCUMENTATION REGARDING REVISIONS.—Section 217(c) of the Housing and Community Development Act of 1987 (12 U.S.C. 4107(c)) is amended in the second sentence by inserting before the period the following: “and make available to the Secretary and tenants all documentation supporting any revision, but not including any information that the Secretary determines is proprietary information”.

#### SEC. 305. APPROVAL OF PLAN OF ACTION.

Section 218 of the Housing and Community Development Act of 1987 (12 U.S.C. 4108) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection:

“(b) STANDARDS AND PROCEDURE FOR WRITTEN FINDINGS.—

“(1) STANDARDS.—A written finding under subsection (a) shall be based on an analysis of the evidence considered by the Secretary in reaching such finding and shall contain documentation of such evidence.

“(2) PROCEDURE AND CRITERIA.—The Secretary shall, by regulation, develop (A) a procedure for determining whether

Regulations.

the conditions under paragraphs (1) and (2) of subsection (a) exist, (B) requirements for evidence on which such determinations are based, and (C) criteria on which such determinations are based.”.

#### SEC. 306. RECEIPT OF INCENTIVES TO EXTEND LOW-INCOME USE.

Section 219(a) of the Housing and Community Development Act of 1987 (12 U.S.C. 4109(a)) is amended—

(1) in the first sentence, by inserting after “receive” the following: “(for each year after the approval of the plan of action)”;

(2) by adding at the end the following new sentence: “The Secretary shall take such actions as are necessary to ensure that owners receive the annual authorized return for the housing determined under section 214(a) during the period in which rent increases are phased in as provided in section 222(a)(2)(E), including (in order of preference) (1) allowing the owner access to residual receipt accounts (pursuant to subsection (b)(1) of this section), (2) deferring remittance of excess rent payments, and (3) providing an increase in rents permitted under an existing contract under section 8 of the United States Housing Act of 1937 (pursuant to subsection (b)(2) of this section).”.

#### SEC. 307. TRANSFER TO QUALIFIED PURCHASERS.

(a) **ELIGIBILITY FOR ASSISTANCE.**—The matter preceding subparagraph (A) in section 220(d)(2) of the Housing and Community Development Act of 1987 (12 U.S.C. 4110(d)(2)) is amended by inserting after “purchasers” the following: “(including all priority purchasers other than resident councils acquiring under the homeownership program authorized by section 226)”.

(b) **PROJECT OVERSIGHT.**—Section 220(d)(2)(D) of the Housing and Community Development Act of 1987 (12 U.S.C. 4110(d)(2)(D)) is amended by inserting before the semicolon the following: “, and in the case of a priority purchaser, meet project oversight costs”.

(c) **RETURN.**—Section 220(d)(2)(E) of the Housing and Community Development Act of 1987 (12 U.S.C. 4110(d)(2)(E)) is amended to read as follows:

“(E) receive a distribution equal to an 8 percent annual return on any actual cash investment (from sources other than assistance provided under this title) made to acquire or rehabilitate the project;”.

(d) **REIMBURSEMENT.**—Section 220(d)(2)(F) of the Housing and Community Development Act of 1987 (12 U.S.C. 4110(d)(2)(F)) is amended to read as follows:

“(F) in the case of a priority purchaser, receive a reimbursement of all reasonable transaction expenses associated with the acquisition, loan closing, and implementation of an approved plan of action; and”.

(e) **INCENTIVES.**—Section 220(d)(3)(A) of the Housing and Community Development Act of 1987 (12 U.S.C. 4110(d)(3)(A)) is amended by striking “any residual receipts” and all that follows through “(b) or (c) and”.

#### SEC. 308. CRITERIA FOR PLAN OF ACTION INVOLVING INCENTIVES.

(a) **ELIMINATION OF WINDFALL PROFITS TEST.**—Section 222 of the Housing and Community Development Act of 1987 (12 U.S.C. 4112) is amended by striking subsection (e).

(b) RENT ADJUSTMENTS.—Section 222(a)(2)(G)(i) of the Housing and Community Development Act of 1987 (12 U.S.C. 4112(a)(2)(G)(i)) is amended by striking “by making changes in the annual authorized return under section 214” and inserting the following: “, where the owner is a priority purchaser, to the portion of rent attributable to project oversight costs”.

**SEC. 309. RESIDENT HOMEOWNERSHIP PROGRAM.**

Section 226(b) of the Housing and Community Development Act of 1987 (12 U.S.C. 4116(b)) is amended—

(1) in paragraph (2)—

(A) by inserting “AND LIMITATION ON CONDITIONS OF APPROVAL” before the period at the end of the paragraph heading; and

(B) by inserting after the period at the end the following new sentence: “The Secretary may not require the prepayment of the mortgage on eligible low-income housing for the approval of a plan of action involving a homeowner-ship program for the housing.”;

(2) in paragraph (3)—

(A) in subparagraph (C), by striking “and” at the end;

(B) in subparagraph (D), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following new subparagraph:

“(E) the low-income affordability restrictions shall continue to apply to any rental units in the housing for any period during which such units remain rental units.”;

(3) in paragraph (8), by striking “Resident” and inserting “Except in the case of limited equity cooperatives, resident”; and

(4) in paragraph (10)—

(A) by striking “, as determined by the Secretary.”;

(B) by striking “section 222(d)” and inserting “section 222(c)”;

(C) by striking the last sentence.

**SEC. 310. DEFINITION OF ELIGIBLE LOW-INCOME HOUSING.**

Section 229(1)(A)(i) of the Housing and Community Development Act of 1987 (12 U.S.C. 4119(1)(A)(i)) is amended by striking “assisted under section 101 of the Housing and Urban Development Act of 1965 or section 8 of the United States Housing Act of 1937” and inserting “receiving loan management assistance under section 8 of the United States Housing Act of 1937 due to a conversion from section 101 of the Housing and Urban Development Act of 1965”.

**SEC. 311. PREEMPTION OF STATE AND LOCAL LAWS.**

The first sentence of section 232(b) of the Housing and Community Development Act of 1987 (12 U.S.C. 4122(b)) is amended by striking “and” the first place it appears and inserting “, such as any law or regulation”.

**SEC. 312. TECHNICAL ASSISTANCE AND CAPACITY BUILDING.**

Title II of the Housing and Community Development Act of 1987 (42 U.S.C. 4101 et seq.) is amended by adding at the end the following new subtitle:

## **“Subtitle C—Technical Assistance and Capacity Building**

12 USC 4141.

**“SEC. 251. AUTHORITY.**

“The Secretary of Housing and Urban Development may provide technical assistance and capacity building to further the preservation program established under this title.

12 USC 4142.

**“SEC. 252. PURPOSES.**

“The purposes of this subtitle are—

“(1) to promote the ability of residents of eligible low-income housing to meaningfully participate in the preservation process established by this title and affect decisions about the future of their housing;

“(2) to promote the ability of community-based nonprofit housing developers and resident councils to acquire, rehabilitate, and competently own and manage eligible housing as rental or cooperative housing for low- and moderate-income people; and

“(3) to assist the Secretary in discharging the obligation under section 220 to notify potential qualified purchasers of the availability of properties for sale and to otherwise facilitate the coordination and oversight of the preservation program established under this title.

12 USC 4143.

**“SEC. 253. GRANTS FOR BUILDING RESIDENT CAPACITY AND FUNDING PREDEVELOPMENT COSTS.**

“(a) IN GENERAL.—Assistance made available under this section shall be used for direct assistance grants to resident organizations and community-based nonprofit housing developers and resident councils to assist the acquisition of specific projects (including the payment of reasonable administrative expenses to participating intermediaries).

“(b) ALLOCATION.—30 percent of the assistance made available under this section shall be used for resident capacity grants in accordance with subsection (d). The remainder shall be used for predevelopment grants in connection with specific projects in accordance with subsection (e).

“(c) LIMITATION ON GRANT AMOUNTS.—A resident capacity grant under subsection (d) may not exceed \$30,000 per project and a grant under subsection (e) for predevelopment costs may not exceed \$200,000 per project, exclusive of any fees paid to a participating intermediary by the Secretary for administering the program.

**“(d) RESIDENT CAPACITY GRANTS.—**

“(1) USE.—Resident capacity grants under this subsection shall be available to eligible applicants to cover expenses for resident outreach, incorporation of a resident organization or council, conducting democratic elections, training, leadership development, legal and other technical assistance to the board of directors, staff and members of the resident organization or council.

“(2) ELIGIBLE HOUSING.—Grants under this subsection may be provided with respect to eligible low-income housing for which the owner has filed a notice of intent under subtitle B of this title or title II of the Emergency Low Income Housing

Preservation Act of 1987 (pursuant to section 604 of the Cranston-Gonzalez National Affordable Housing Act).

**"(e) PREDEVELOPMENT GRANTS.—**

**"(1) USE.—**Predevelopment grants under this subsection shall be made available to community-based nonprofit housing developers and resident councils to cover the cost of organizing a purchasing entity and pursuing an acquisition, including third party costs for training, development consulting, legal, appraisal, accounting, environmental, architectural and engineering, application fees, and sponsor's staff and overhead costs.

**"(2) ELIGIBLE HOUSING.—**Such grants may only be made available with respect to any eligible low-income housing project for which the owner has filed an initial notice of intent to transfer the housing to a qualified purchaser in accordance with section 220 of this title, or has filed a notice of intent and entered into a binding agreement to sell the housing to a resident organization or nonprofit organization.

**"(3) PHASE-IN OF GRANT PAYMENTS.—**Grant payments under this subsection shall be made in phases, based on performance benchmarks established by the Secretary in consultation with intermediaries selected under section 255(b).

**"(f) GRANT APPLICATIONS.—**Grant applications for assistance under subsections (d) and (e) shall be received monthly on a rolling basis and approved or rejected on at least a quarterly basis by intermediaries selected under section 255(b).

**"(g) APPEAL.—**If an application for assistance under subsections (d) or (e) is denied, the applicant shall have the right to appeal the denial to the Secretary and receive a binding determination within 30 days of the appeal.

**"SEC. 254. GRANTS FOR OTHER PURPOSES.**

12 USC 4144.

**"The Secretary may provide grants under this subtitle—**

**"(1)** to resident-controlled or community-based nonprofit organizations with experience in resident education and organizing for the purpose of conducting community, city or county wide outreach and training programs to identify and organize residents of eligible low-income housing; and

**"(2)** to State and local government agencies and nonprofit intermediaries for the purpose of carrying out such activities as the Secretary deems appropriate to further the preservation program established under this title.

**"SEC. 255. DELIVERY OF ASSISTANCE THROUGH INTERMEDIARIES.**

12 USC 4145.

**"(a) IN GENERAL.—**The Secretary shall approve and disburse assistance under section 253 through eligible intermediaries selected by the Secretary under subsection (b). If the Secretary does not receive an acceptable proposal from an intermediary offering to administer assistance under this section in a given State, the Secretary shall administer the program in such State directly.

**"(b) SELECTION OF ELIGIBLE INTERMEDIARIES.—**

**"(1) IN GENERAL.—**The Secretary shall develop criteria to select eligible intermediaries, through a competitive process, to administer assistance under this subtitle. The process shall include provision for a reasonable administrative fee.

**"(2) PRIORITY.—**With respect to all forms of grants available under section 253, such criteria shall give priority to applications from eligible intermediaries with demonstrated expertise

or experience with the program established under this title or under the Emergency Low Income Housing Preservation Act of 1987.

“(3) CRITERIA.—The criteria developed under this subsection shall—

“(A) not assign any preference or priority to applications from eligible intermediaries based on their previous participation in administering or receiving Federal grants or loans (but may exclude applicants who have failed to perform under prior contracts of a similar nature);

“(B) require an applicant to prepare a proposal that demonstrates adequate staffing, qualifications, prior experience, and a plan for participation; and

“(C) permit an applicant to serve as the administrator of assistance made available under section 253(d) or (e), based on the applicant’s suitability and interest.

“(4) GEOGRAPHIC COVERAGE.—The Secretary may select more than 1 State or regional intermediary for a single State or region. The number of intermediaries chosen for each State or region may be based on the number of eligible low-income housing projects in the State or region, provided there is no duplication of geographic coverage by intermediaries in the administration of the direct assistance grant program.

“(5) NATIONAL NONPROFIT INTERMEDIARIES.—National nonprofit intermediaries shall be selected to administer the assistance made available under section 253 only with respect to States or regions for which no other eligible intermediary, acceptable to the Secretary, has submitted a proposal to participate.

“(6) PREFERENCE.—With respect to assistance made available under section 254, preference shall be given to eligible regional, State, and local intermediaries, over national nonprofit organizations.

“(c) CONFLICTS OF INTEREST.—Eligible intermediaries selected under subsection (b) to disburse assistance under section 253 shall certify that they will serve only as delegated program administrators, charged with the responsibility for reviewing and approving grant applications on behalf of the Secretary. Selected intermediaries shall—

“(1) establish appropriate procedures for grant administration and fiscal management, pursuant to standards established by the Secretary; and

“(2) receive a reasonable administrative fee, except that they may not provide other services to grant recipients with respect to projects that are the subject of the grant application and may not receive payment, directly or indirectly, from the proceeds of grants they have approved.

“(d) DEFINITION OF ELIGIBLE INTERMEDIARIES.—For purposes of this section, the term ‘eligible intermediary’ means a State, regional, or national organization (including a quasi-public organization) or a State or local housing agency that—

“(1) has as a central purpose the preservation of existing affordable housing and the prevention of displacement;

“(2) does not receive direct Federal appropriations for operating support;

“(3) in the case of a national nonprofit organization, has been in existence for at least 5 years prior to the date of



application and has been classified by the Internal Revenue Service as an exempt organization under section 501(c)(3) of the Internal Revenue Code of 1986;

"(4) in the case of a regional or State nonprofit organization, has been in existence for at least 3 years prior to the date of application and has been classified by the Internal Revenue Service as an exempt organization under section 501(c)(3) of the Internal Revenue Code of 1986 or is otherwise a tax-exempt entity;

"(5) has a record of service to low-income individuals or community-based nonprofit housing developers in multiple communities and, with respect to intermediaries administering assistance under section 253, has experience with the allocation or administration of grant or loan funds; and

"(6) meets standards of fiscal responsibility established by the Secretary.

**"SEC. 256. DEFINITIONS.**

12 USC 4146.

"For purposes of this subtitle—

"(1) the term 'community-based nonprofit housing developer' means a nonprofit community development corporation that—

"(A) has been classified by the Internal Revenue Service as an exempt organization under section 501(c)(3) of the Internal Revenue Code of 1986;

"(B) has been in existence for at least 2 years prior to the date of the grant application;

"(C) has a record of service to low- and moderate-income people in the community in which the project is located;

"(D) is organized at the neighborhood, city, county or multi-county level; and

"(E) in the case of a corporation acquiring eligible housing under subtitle B of this title, agrees to form a purchaser entity that conforms to the definition of a community-based nonprofit organization under such subtitle and agrees to use its best efforts to secure majority tenant consent to the acquisition of the project for which grant assistance is requested; and

"(2) the terms 'eligible low-income housing', 'nonprofit organization', 'owner', and 'resident council' have the meanings given such terms in section 229.

**"SEC. 257. FUNDING.**

12 USC 4147.

"The Secretary shall use not more than \$25,000,000 of the amounts made available under section 234(a) for fiscal year 1993, and not more than \$25,000,000 of the amounts made available under section 234(a) for fiscal year 1994, to carry out this subtitle. Of any amounts made available to carry out this subtitle in any appropriation Act, 90 percent shall be set aside for use in accordance with section 253 and 10 percent shall be set aside for use in accordance with subsection 254."

**SEC. 313. TRANSITION PROVISIONS.**

(a) EFFECT OF ELECTION.—Section 604(a) of the Cranston-Gonzalez National Affordable Housing Act (12 U.S.C. 4101 note) is amended by adding at the end the following sentence: "An owner that elects to be subject to the provisions of the Emergency Low

Income Housing Preservation Act of 1987 shall comply with section 212(b), section 217(a)(2), and section 217(c) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990.”

(b) CHANGES TO PROVISIONS OF 1987 ACT.—Section 604(c) of the Cranston-Gonzalez National Affordable Housing Act (12 U.S.C. 4101 note) is amended by adding at the end the following new sentence: “With respect to housing for which such an election is made—

“(1) in making incentives under section 224 of such Act available to such housing, the Secretary—

“(A) shall, for approvable plans of action, provide assistance sufficient to enable a nonprofit organization that has purchased or will purchase an eligible low income housing project to meet project oversight costs; and

“(B) may not refuse to offer incentives referred to in such section to any owner who filed a notice of intent under section 222 of such Act before October 15, 1991, based solely on the date of filing of the plan of action for the housing; and

“(2) the provisions of section 233(1)(A)(i) of such Act shall not apply, and the term ‘eligible low income housing’ shall, for purposes of such Act, shall include housing financed by a loan or mortgage that is insured or held by the Secretary or a State or State agency under section 221(d)(3) of the National Housing Act and receiving loan management assistance under section 8 of the United States Housing Act of 1937 due to a conversion from section 101 of the Housing and Urban Development Act of 1965.”

12 USC 4101  
note.

#### SEC. 314. CONDITIONS OF ASSISTANCE.

(a) ELIHPA OF 1987.—The Secretary may not require, as a condition of eligibility for or receipt of technical assistance made available under the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992 (Public Law 102-139) (including any phase of a grant), that an applicant participate in a training program sponsored or conducted by the Department of Housing and Urban Development for acquisition of eligible low income housing under the provisions of the Emergency Low Income Housing Preservation Act of 1987, and may not provide any preference or priority for such assistance for any applicant based on participation in such a program.

(b) LIHPRHA OF 1990.—The Secretary may require, as a condition of eligibility for or receipt of technical assistance made available under the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992 (Public Law 102-139) (including any phase of a grant), that an applicant participate in a training program sponsored or conducted by the Department of Housing and Urban Development for acquisition of eligible low-income housing under this title, and may provide preference or priority for such assistance for applicants based on participation in such a program, but only if the program is made available on a nationwide basis not later than March 1, 1993.

#### SEC. 315. DELEGATED RESPONSIBILITY TO STATE AGENCIES.

The Secretary of Housing and Urban Development shall issue interim regulations implementing section 227 of the Housing and Community Development Act of 1987 (as amended by section 601(a) of the Cranston-Gonzalez National Affordable Housing Act) not

Regulations.  
12 USC 4117  
note.

later than the expiration of the 30-day period beginning on the date of the enactment of this Act, which shall take effect upon issuance. The Secretary shall issue final regulations implementing such section 227 after notice and opportunity for public comment regarding the interim regulations, pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section). The duration of the period for public comment shall not be less than 60 days, and the final regulations shall be issued not later than the expiration of the 60-day period beginning upon the conclusion of the comment period and shall take effect upon issuance.

**SEC. 316. INSURANCE FOR SECOND MORTGAGE FINANCING.**

(a) **TERMS.**—Section 241(f) of the National Housing Act (12 U.S.C. 1715z-6(f)) is amended—

(1) in paragraph (2)(B)(i), by inserting after “equal to” the following: “the amount of rehabilitation costs required by the plan of action and related charges and”;

(2) in paragraph (3)(B), by inserting after “1990” the following: “and the amount of rehabilitation costs required by the plan of action and related charges and”;

(3) in paragraph (5)—

(A) by redesignating subparagraph (B) as subparagraph (C); and

(B) by striking subparagraph (A) and inserting the following new subparagraphs:

“(A)(i) in the case of equity loans, have a term not to exceed 40 years and amortization provisions which will, to the extent practicable, support the loan amount authorized under paragraph (2)(B); and

“(ii) in the case of acquisition loans, have a term of not less than 40 years; and

“(B) bear interest at such rate as may be agreed upon by the mortgagor and mortgagee and be secured in such manner as the Secretary may require; and”;

(4) by striking paragraph (6); and

(5) by redesignating paragraphs (7) through (9) as paragraphs (6) through (8), respectively.

(b) **RENEGOTIATION.**—Section 241(f) of the National Housing Act (12 U.S.C. 17z-6(f)) is amended by adding at the end the following new paragraph:

“(10) The Secretary shall renegotiate and modify the terms of an equity loan insured under this subsection, at the request of the owner of the project for which the loan is made, if—

“(1) the loan was made during the period beginning 30 days before the date of the enactment of the Housing and Community Development Act of 1992 and ending 90 days after such date of enactment under this subsection; and

“(2) the loan was made pursuant to a plan of action under the provisions of the Emergency Low Income Housing Preservation Act of 1987 and accepted by the Secretary for processing in December 1991.”.

(c) **REGULATIONS.**—Not later than the expiration of the 45-day period beginning on the date of the enactment of this Act, the Secretary shall issue regulations implementing section 241(f)(1) of the National Housing Act. The regulations shall not be subject

12 USC 1715z-6.

12 USC 1715z-6  
note.

to the requirements of subsections (b) and (c) of section 553 of title 5, United States Code.

#### SEC. 317. TECHNICAL AMENDMENTS.

(a) **LOW-INCOME HOUSING PRESERVATION AND RESIDENT HOMEOWNERSHIP ACT OF 1990.**—The Housing and Community Development Act of 1987 (12 U.S.C. 4101 et seq.) is amended—

12 USC 4105. (1) in section 215(a)(2), by inserting “Housing” after “United States”;

12 USC 4106. (2) in section 216(b)(4), by striking “exceeds” and inserting “exceed”;

12 USC 4111. (3) in the second sentence of section 221(c), by striking “that” and inserting “than”;

12 USC 4112. (4) in section 222—

(A) in subsection (a)(2)(A), by striking “low income” and inserting “low-income”;

(B) in subsection (c)(2), by striking “an hearing” and inserting “a hearing”;

(C) in subsection (d)(2)(B), by inserting “the” after “that”; and

(D) in subsection (d)(2)(C)(ii), by inserting “in” before “default”;

12 USC 4119. (5) in section 229(11)(A), by striking “resident” and inserting “residents”; and

12 USC 4121. (6) in section 231(b), by striking “section 222(d)” and inserting “section 222(c)”.

(b) **CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT.**—Section 613(b)(2) of the Cranston-Gonzalez National Affordable Housing Act (12 U.S.C. 4125(b)(2)) is amended by striking “section 224(e)” and inserting “section 222(d)”.

(c) **NATIONAL HOUSING ACT.**—Section 241(f) of the National Housing Act (12 U.S.C. 1715z-6(f)) is amended—

(1) in paragraph (2)(B)(ii), by striking “and” at the end; and

(2) in paragraph (7), by striking “acquisiton loan” and inserting “acquisition loan”.

12 USC 4109  
note.

#### SEC. 318. STUDY OF PROJECTS ASSISTED UNDER FLEXIBLE SUBSIDY PROGRAM.

(a) **STUDY.**—The Secretary shall conduct a study of housing projects that (1) are assisted under section 236 of the National Housing Act or the proviso of section 221(d)(5) of such Act, and (2) have received or are receiving assistance under section 201 of the Housing and Community Development Amendments of 1978, to determine the cost of providing such projects with incentives under the Low-Income Housing Preservation and Resident Homeownership Act of 1990. The study shall examine any projects portions of which assisted under such section 236 that are assisted primarily by State agencies.

(b) **REPORT.**—The Secretary shall submit a report to the Congress regarding any findings and conclusions of the study under subsection (a) not later than the expiration of the 1-year period beginning on the date of the enactment of this Act.

## Subtitle B—Other Preservation Provisions

### SEC. 331. ELIGIBILITY OF PUBLIC MORTGAGORS FOR SECTION 236 MORTGAGE INSURANCE.

Section 236(j)(4)(A) of the National Housing Act (12 U.S.C. 1715z-1(j)(4)(A)) is amended by striking "private".

### SEC. 332. REGULATIONS.

12 USC 4101  
note.

Except as otherwise provided in this title, the Secretary of Housing and Urban Development shall issue interim regulations implementing this title and the amendments made by this title not later than the expiration of the 90-day period beginning on the date of the enactment of this Act, which shall take effect upon issuance. The Secretary shall issue final regulations implementing this title and the amendments made by this title after notice and opportunity for public comment regarding the interim regulations, pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section). The duration of the period for public comment shall not be less than 60 days, and the final regulations shall be issued not later than the expiration of the 60-day period beginning upon the conclusion of the comment period and shall take effect upon issuance.

## TITLE IV—MULTIFAMILY HOUSING PLANNING AND INVESTMENT STRATEGIES

### SEC. 401. DEFINITIONS.

12 USC 1715z-1a  
note.

For purposes of this title:

(1) **COVERED MULTIFAMILY HOUSING PROPERTY.**—The term "covered multifamily housing property" means any housing—  
(A) that is—

(i) reserved for occupancy by very low-income elderly persons pursuant to section 202(d)(1) of the Housing Act of 1959;

(ii) assisted under the provisions of section 202 of the Housing Act of 1959 (as such section existed before the effectiveness of the amendment made by section 801(a) of the Cranston-Gonzalez National Affordable Housing Act);

(iii) financed by a loan or mortgage insured, assisted, or held by the Secretary or a State or State agency under section 236 of the National Housing Act; or

(iv) financed by a loan or mortgage insured or held by the Secretary pursuant to section 221(d)(3) of the National Housing Act; and

(B) that is not eligible for assistance under—

(i) the Low-Income Housing Preservation and Resident Homeownership Act of 1990;

(ii) the provisions of the Emergency Low Income Housing Preservation Act of 1987 (as in effect imme-

diately before the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act); or  
(iii) the HOME Investment Partnerships Act.

(2) **COVERED MULTIFAMILY HOUSING PROPERTY FOR THE ELDERLY.**—The term “covered multifamily housing property for the elderly” means any multifamily housing project that was designed or designated to serve, or is serving, elderly persons or families and is assisted under a program administered by the Secretary.

(3) **SECRETARY.**—The term “Secretary” means the Secretary of Housing and Urban Development.

12 USC 1715z-1a  
note.

#### **SEC. 402. REQUIRED SUBMISSION.**

(a) **IN GENERAL.**—The owner of each covered multifamily housing property, and the owner of each covered multifamily housing property for the elderly, shall submit to the Secretary of Housing and Urban Development a comprehensive needs assessment of the property under this title.

(b) **TIMING.**—The Secretary shall require the owners of approximately one-third of the aggregate number of covered multifamily housing properties, and the owners of approximately one-third of the aggregate number of covered multifamily housing properties for the elderly, to submit the comprehensive needs assessments under this section for the properties in each of fiscal years 1993, 1994, and 1995, in a manner designed to ensure that upon the conclusion of fiscal year 1995 the assessments for all such properties have been submitted.

12 USC 1715z-1a  
note.

#### **SEC. 403. CONTENTS.**

(a) **IN GENERAL.**—Each comprehensive needs assessment submitted under this title for a covered multifamily housing property or a covered multifamily housing property for the elderly shall contain the following information with respect to the property:

(1) A description of any financial or other assistance currently needed for the property to ensure that the property is maintained in a livable condition and to ensure the financial viability of the project.

(2) A description of any financial or other assistance for the property that, at the time of the assessment, is reasonably foreseeable as necessary to ensure that the property is maintained in a livable condition and to ensure the financial viability of the project, during the remaining useful life of the property.

(3) A description of any resources available for meeting the current and future needs of the property described under paragraphs (1) and (2) and the likelihood of obtaining such resources.

(4) A description of any assistance needed for the property under programs administered by the Secretary.

(b) **PROJECTS FOR THE ELDERLY.**—Each comprehensive needs assessment for a covered multifamily housing property for the elderly shall include, in addition to the information required under subsection (a), the following information with respect to the property:

(1) A description of the supportive service needs of such residents and any supportive services provided to elderly residents of the property.

(2) A description of any modernization needs and activities for the property.

(3) A description of any personnel needs for the property.

**SEC. 404. SUBMISSION AND REVIEW.**

12 USC 1715z-1a  
note.

(a) **FORM.**—The Secretary shall establish the form and manner of submission of the comprehensive needs assessments under this title.

(b) **RESIDENT REVIEW.**—The Secretary shall require each owner of a covered multifamily housing property and each owner of a covered multifamily housing property for the elderly to make available to the residents of the property the comprehensive needs assessment that is to be submitted to the Secretary. The Secretary shall require each owner to provide for such residents to submit comments and opinions regarding the assessment to the owner before the submission of the assessment.

(c) **STATE HOUSING FINANCE AGENCY REVIEW.**—To the extent that a covered multifamily housing property or a covered multifamily housing property for the elderly is financed or assisted by a State housing finance agency (as such term is defined in section 802 of the Housing and Community Development Act of 1974), the Secretary shall require the owner of the property to submit the comprehensive needs assessment for the property to the State housing finance agency upon submitting the assessment to the Secretary.

(d) **REVIEW.**—The Secretary shall review each comprehensive needs assessment and shall approve the assessment before the expiration of the 90-day period beginning upon the receipt of the assessment, unless the Secretary determines that the assessment has not been provided in a substantially complete manner.

(e) **COST OF PREPARATION OF STRATEGY.**—The Secretary shall consider any costs relating to preparing a comprehensive needs assessment under this title for a covered multifamily housing property that do not exceed \$5,000 for the property as an eligible project expense for the property. The Secretary shall provide that an owner may not increase the rental charge for any unit in a covered multifamily housing property to provide for the cost of preparing a comprehensive needs assessment.

(f) **NOTICE.**—The Secretary shall immediately notify each owner submitting a comprehensive needs assessment (and any State housing finance agency to which the owner has submitted an assessment under subsection (d)) of the approval or disapproval of the assessment upon making such determination. Within 30 days after disapproving any assessment, the Secretary shall inform the owner in writing of the reasons for disapproval. The Secretary shall require any owner whose assessment is disapproved to resubmit an amended assessment not later than 30 days after the owner receives the notice of disapproval.

(g) **ANNUAL REVIEW AND REPORT OF FUNDING AND TARGETING FOR COVERED MULTIFAMILY PROPERTIES FOR THE ELDERLY.**—

(1) **REVIEW.**—The Secretary shall annually conduct a comprehensive review of—

(A) the funding levels required to fully address the needs of covered multifamily housing properties for the elderly identified in the comprehensive needs assessments under section 403(b), specifically identifying any expenses necessary to make substantial repairs and add features (such as congregate dining facilities and commercial kitchens) resulting from development of a property in compliance

with cost-containment requirements established by the Secretary;

(B) the adequacy of the geographic targeting of resources provided under programs of the Department with respect to covered multifamily housing properties for the elderly, based on information acquired pursuant to section 403(b); and

(C) local housing markets throughout the United States, with respect to the need, availability, and cost of housing for elderly persons and families, which shall include review of any information and plans relating to housing for elderly persons and families included in comprehensive housing affordability strategies submitted by jurisdictions pursuant to section 105 of the Cranston-Gonzalez National Affordable Housing Act.

(2) **REPORT.**—The Secretary of Housing and Urban Development shall submit a report to the Congress annually describing the results of the annual comprehensive needs assessments under section 402 for covered multifamily housing properties for the elderly and the annual review conducted under paragraph (1) of this subsection, which shall contain a description of the methods used by project owners and by the Secretary to acquire the information described in section 402(b) and any findings and recommendations of the Secretary pursuant to the review.

#### **SEC. 405. TROUBLED MULTIFAMILY HOUSING.**

(a) **MANDATORY ELEMENTS.**—Section 201(d) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z-1a(d)) is amended—

(1) in paragraph (5), by striking “and”;

(2) in paragraph (6), by striking the period and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

“(7) all reasonable attempts have been made to take all appropriate actions and provide suitable housing for project residents;

“(8) the project has a feasible plan to involve the residents in project decisions;

“(9) the affirmative fair housing marketing plan meets applicable requirements; and

“(10) the owner certifies that it will comply with various equal opportunity statutes.”.

(b) **SELECTION CRITERIA.**—

(1) **REPEAL OF SECTION 201(k)(4).**—Section 201(k)(4) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z-1a(k)(4)) is repealed.

(2) **NEW CRITERIA.**—Section 201 of the Housing and Community Development Amendments of 1978 is amended by adding at the end the following new subsection:

“(n)(1) The Secretary shall award assistance under this section to eligible projects on the basis of the following selection criteria:

“(A) The extent to which the project presents an imminent threat to the life, health, and safety of project residents.

“(B) The extent to which the project is financially troubled.

“(C) The extent of physical improvements needed by the project as evidenced by the comprehensive needs assessment



submitted in accordance with title IV of the Housing and Community Development Act of 1992.

“(D) The extent to which there is evidence that there will be significant opportunities for residents (including a resident council or resident management corporation, as appropriate) to be involved in management of the project (except that this paragraph shall have no application to projects that are owned as cooperatives).

“(E) The extent to which there is evidence that the project owner has provided competent management and complied with all regulatory and administrative instructions (including such instructions with respect to the comprehensive servicing of multifamily projects as the Secretary may issue).

“(F) Such other criteria as the Secretary may specify by regulation or in a Federal Register notice of fund availability.

“(2) Eligible projects that have federally insured mortgages in force are to be selected for award of assistance under this section before any other eligible project.”

(c) **LOW-INCOME AFFORDABILITY RESTRICTIONS.**—Section 201(1)(2)(D) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z-1a(1)(2)(D)) is amended by adding at the end the following: “The Secretary may require owners receiving assistance for capital improvements under this section to retain the housing as housing affordable for very low-income families or persons, low-income families or persons and moderate-income families or persons for the remaining useful life of the housing. For purposes of this section, the term ‘remaining useful life’ means, with respect to housing assisted under this section, the period during which the physical characteristics of the housing remain in a condition suitable for occupancy, assuming normal maintenance and repairs are made and major systems and capital components are replaced as becomes necessary.”

(d) **EXCLUSIVITY OF ASSISTANCE.**—Section 201 of the Housing and Community Development Amendments of 1978, as amended by this section, is further amended by adding at the end the following new subsection:

“(o) Projects receiving assistance under this section are not eligible for prepayment incentives under the Emergency Low-Income Housing Preservation Act of 1987 or the Low-Income Housing Preservation and Resident Homeownership Act of 1990. Projects receiving financial assistance under such Acts are not eligible for assistance under this section.”

(e) **OWNER CONTRIBUTIONS.**—Section 201(k)(2) of the Housing and Community Development Amendments of 1978 is amended—

(1) in subparagraph (B), by striking “and”;

(2) in subparagraph (C), by striking the period and inserting “; and”; and

(3) by adding at the end the following new subparagraph:

“(D) the Secretary shall give owners credit for advances made to the project during a 3-year period prior to the application for assistance.”

(f) **COORDINATION OF ASSISTANCE.**—Section 201 of the Housing and Community Development Amendments of 1978, as amended by this section, is further amended by adding at the end the following new subsection:

“(p) The Secretary shall coordinate the allocation of assistance under this section with assistance made available under section

8(v) of the United States Housing Act of 1937 and section 203 of this Act to enhance the cost effectiveness of the Federal response to troubled multifamily housing.”.

**SEC. 406. FLEXIBLE SUBSIDY PROGRAM.**

Section 201(d)(6) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z-1a(d)(6)) is amended by inserting before the period at the end the following: “; and except that the Secretary shall review and approve or disapprove each plan not later than the expiration of the 30-day period beginning upon the date of submission of the plan to the Secretary by the owner, but if the Secretary fails to inform the owner of approval or disapproval of the plan within such period the plan shall be considered to have been approved”.

**SEC. 407. CAPACITY STUDY.**

Section 110(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12710(a)) is amended—

(1) by striking “, and”; and

(2) by striking the period at the end and inserting the following: “, and the ability to respond to areas identified as ‘material weaknesses’ by the Office of the Inspector General in financial audits or other reports.”.

**SEC. 408. FLEXIBLE SUBSIDY PROGRAM.**

(a) **AUTHORIZATION OF APPROPRIATIONS.**—Section 201(j)(5) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z-1a(j)(5)) is amended to read as follows:

“(5) There is authorized to be appropriated for assistance under the flexible subsidy fund not to exceed \$52,200,000 for fiscal year 1993 and \$54,392,400 for fiscal year 1994.”.

(b) **USE OF SECTION 236 RENTAL ASSISTANCE FUND AMOUNTS FOR FLEXIBLE SUBSIDY PAYMENTS.**—Section 236(f)(3) of the National Housing Act (12 U.S.C. 1715z-1a(f)(3)) is amended by striking “September 30, 1992” and inserting “September 30, 1994”.

12 USC 1715z-1.

## **TITLE V—MORTGAGE INSURANCE AND SECONDARY MORTGAGE MARKET**

### **Subtitle A—FHA Mortgage Insurance Programs**

**SEC. 501. LIMITATION ON INSURANCE AUTHORITY.**

Section 531(b) of the National Housing Act (12 U.S.C. 1735f-9(b)) is amended to read as follows:

“(b) Notwithstanding any other provision of law and subject only to the absence of qualified requests for insurance, to the authority provided in this Act, and to the limitation in subsection (a), the Secretary shall enter into commitments to insure mortgages under this Act with an aggregate principal amount of \$65,905,824,960 during fiscal year 1993 and \$68,673,868,600 during fiscal year 1994.”.

**SEC. 502. FEDERAL HOUSING ADMINISTRATION ADVISORY BOARD.**

Section 202(b) of the National Housing Act (12 U.S.C. 1708(b)) is amended by adding at the end the following new paragraph:

"(11) The Board shall terminate on January 1, 1995."

**SEC. 503. MAXIMUM MORTGAGE AMOUNT.**

(a) **IN GENERAL.**—The first sentence of section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended to read as follows: "Involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount—

"(A) not to exceed the lesser of—

"(i) in the case of a 1-family residence, 95 percent of the median 1-family house price in the area, as determined by the Secretary; in the case of a 2-family residence, 107 percent of such median price; in the case of a 3-family residence, 130 percent of such median price; or in the case of a 4-family residence, 150 percent of such median price; or

"(ii) 75 percent of the dollar amount limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (as in effect on September 30, 1992) for a residence of the applicable size;

except that the applicable dollar amount limitation in effect for any area under this subparagraph (A) may not be less than the dollar amount limitation in effect under this section for the area on May 12, 1992; and

"(B) except as otherwise provided in this paragraph (2), not to exceed an amount equal to the sum of—

"(i) 97 percent of \$25,000 of the appraised value of the property, as of the date the mortgage is accepted for insurance;

"(ii) 95 percent of such value in excess of \$25,000 but not in excess of \$125,000; and

"(iii) 90 percent of such value in excess of \$125,000."

(b) **APPLICABILITY.**—The amendment made by subsection (a) shall apply only to mortgages executed on or after January 1, 1993.

12 USC 1709  
note.

(c) **CONFORMING AMENDMENTS.**—

(1) **TITLE I—LOANS.**—Notwithstanding any other provision of law, section 2(b)(1) of the National Housing Act (12 U.S.C. 1703(b)(1)) is amended by striking subparagraphs (C), (D), and (E) and inserting the following new subparagraphs:

"(C) \$48,600 if made for the purpose of financing the purchase of a manufactured home;

"(D) \$64,800 if made for the purpose of financing the purchase of a manufactured home and a suitably developed lot on which to place the home; and

"(E) \$16,200 if made for the purpose of financing the purchase, by an owner of a manufactured home which is the principal residence of that owner, of a suitably developed lot on which to place that manufactured home, and if the owner certifies that he or she will place the manufactured home on the lot acquired with such loan within 6 months after the date of such loan."

(2) **HOME EQUITY CONVERSION MORTGAGES FOR ELDERLY HOMEOWNERS.**—Section 255(g) of the National Housing Act (12 U.S.C. 1715z-20(g)) is amended by striking "for a 1-family residence" and inserting "for 1-family residences in the area

in which the dwelling subject to the mortgage under this section is located”.

(3) RTC AFFORDABLE HOUSING PROGRAM.—Subparagraphs (D)(ii) and (G)(II) of section 21A(c)(9) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(9)) are each amended by striking “the applicable dollar amount” and all that follows through “areas” and inserting the following: “\$67,500 in the case of a 1-family residence, \$76,000 in the case of a 2-family residence, \$92,000 in the case of a 3-family residence, and \$107,000 in the case of a 4-family residence”.

(4) FDIC AFFORDABLE HOUSING PROGRAM.—Paragraphs (4)(B) and (7)(B) of section 40(p) of the Federal Deposit Insurance Act (12 U.S.C. 1831q(p)) are each amended to read as follows:

“(B) that has an appraised value that does not exceed the amount provided in section 203(b)(2)(A) of the National Housing Act except that such amount shall not exceed \$101,250 in the case of a 1-family residence, \$114,000 in the case of a 2-family residence, \$138,000 in the case of a 3-family residence, and \$160,000 in the case of a 4-family residence.”

(d) GAO STUDY ON FHA LOAN LIMITS AND GSE CONFORMING LOAN LIMITS.—

Reports.

(1) IN GENERAL.—The Comptroller General of the United States shall submit to the Congress, on or before September 1, 1993, a report which evaluates the methodology used to establish the annual conforming loan limits for the secondary market, pursuant to section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act, as well as the loan limits adjustments utilized under the single family mortgage insurance program under section 203 of the National Housing Act.

(2) CONTENTS.—The report shall—

(A) evaluate the methodology used to determine the annual adjustment to the conforming loan limit, including the accuracy of using the Mortgage Interest Rate Survey (MIRS) in determining the median home sales price each year;

(B) recommend any legislative or administrative changes to ensure that the conforming loan limits accurately reflect market dynamics;

(C) assess the long-term consequences of indexing the mortgage limits utilized under the FHA section 203(b) single family mortgage insurance program to the annual adjustments to the conforming loan limits for the secondary market;

(D) assess the impact of such annual adjustments on the ability of the FHA single family insurance program to serve low and moderate income borrowers; and

(E) recommend alternative measures that could be employed to ensure that FHA can meet the needs of low and moderate income families in low and high cost areas of the country.

#### SEC. 504. FHA ANNUAL REPORT.

Section 203 of the National Housing Act (12 U.S.C. 1709) is amended by adding at the end the following:

“(v) ANNUAL REPORT.—The Secretary of Housing and Urban Development shall submit to the Congress an annual report on the single family mortgage insurance program under this section. Each report shall set forth—

“(1) an analysis of the income groups served by the single family insurance program, including—

“(A) the percentage of borrowers whose incomes do not exceed 100 percent of the median income for the area;

“(B) the percentage of borrowers whose incomes do not exceed 80 percent of the median income for the area; and

“(C) the percentage of borrowers whose incomes do not exceed 60 percent of the median income for the area;

“(2) an analysis of the percentage of minority borrowers annually assisted by the program; the percentage of central city borrowers assisted and the percentage of rural borrowers assisted by the program;

“(3) the extent to which the Secretary in carrying out the program has employed methods to ensure that needs of low and moderate income families, underserved areas, and historically disadvantaged groups are served by the program; and

“(4) the current impediments to having the program serve low and moderate income borrowers; borrowers from central city areas; borrowers from rural areas; and minority borrowers.

#### SEC. 505. MAXIMUM PRINCIPAL OBLIGATION OF MORTGAGES FOR VETERANS.

(a) IN GENERAL.—The first sentence of the last undesignated paragraph of section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended by striking “Notwithstanding any other provision of this paragraph,” and inserting “Except with respect to mortgages executed by mortgagors who are veterans,”.

(b) TECHNICAL AMENDMENT.—Section 203(b)(9) of the National Housing Act (12 U.S.C. 1709(b)(9)) is amended by striking “(except in a case to which the next to the last sentence of paragraph (2) applies)” and inserting “(except with respect to a mortgage executed by a mortgagor who is a veteran)”.

#### SEC. 506. PREPURCHASE COUNSELING REQUIREMENT.

(a) IN GENERAL.—Section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended by inserting at the end the following new undesignated paragraph:

“Notwithstanding any other provision of this paragraph, the Secretary may not insure, or enter into a commitment to insure, a mortgage under this section that is executed by a first-time homebuyer and that involves a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in excess of 97 percent of the appraised value of the property unless the mortgagor has completed a program of counseling with respect to the responsibilities and financial management involved in homeownership that is approved by the Secretary; except that the Secretary may, in the discretion of the Secretary, waive the applicability of this requirement.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to mortgages for which commitments for insurance

12 USC 1709  
note.

are issued after the expiration of the 12-month period beginning on the date of the enactment of this Act.

**SEC. 507. AUTHORITY TO DECREASE INSURANCE PREMIUM CHARGES.**

(a) **PERMANENT PROVISIONS.**—Section 203(c)(2) of the National Housing Act (12 U.S.C. 1709(c)(2)) is amended—

(1) in subparagraph (A), by striking “equal to” and inserting “not exceeding”; and

(2) in subparagraph (B)—

(A) in the matter preceding clause (i), by striking “equal to” and inserting “not exceeding”; and

(B) in clause (ii), by striking “equal to 0.55 percent” and inserting “not exceeding 0.55 percent”.

(b) **TRANSITION PROVISIONS.**—Section 2103(b) of the Omnibus Budget Reconciliation Act of 1990 (12 U.S.C. 1709 note) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking “equal to” and inserting “not exceeding”; and

(B) in subparagraph (B), in the matter preceding clause (i), by striking “equal to” and inserting “not exceeding”; and

(2) in paragraph (2)—

(A) in subparagraph (A), by striking “equal to” and inserting “not exceeding”; and

(B) in subparagraph (B), in the matter preceding clause (i), by striking “equal to” and inserting “not exceeding”.

**SEC. 508. STATUTE OF LIMITATIONS ON PAYMENT OF DISTRIBUTIVE SHARES.**

(a) **DISTRIBUTION OF SHARES.**—Section 205(c) of the National Housing Act (12 U.S.C. 1711(c)) is amended by adding at the end the following two new sentences: “The Secretary shall not distribute any share to an eligible mortgagor under this subsection beginning on the date which is 6 years after the date the Secretary first transmitted written notification of eligibility to the last known address of the mortgagor, unless the mortgagor has applied in accordance with procedures prescribed by the Secretary for payment of the share within the 6-year period. The Secretary shall transfer any amounts no longer eligible for distribution under the previous sentence from the Participating Reserve Account to the General Surplus Account.”.

(b) **EXCEPTION.**—Notwithstanding the 6-year limitation on distribution of shares of the Participating Reserve Account under section 205(c) of the National Housing Act, the Secretary shall distribute a share to an otherwise eligible mortgagor in accordance with section 205(c), if the mortgagor applies for payment of the share within 1 year after the date of enactment of this Act in accordance with procedures in effect on such date.

**SEC. 509. MORTGAGE LIMITS FOR MULTIFAMILY PROJECTS.**

(a) **SECTION 207 LIMITS.**—Section 207(c)(3) of the National Housing Act (12 U.S.C. 1713(c)(3)) is amended—

(1) by striking “\$25,350”, “\$28,080”, “\$33,540”, “\$41,340”, and “\$46,800” and inserting “\$30,420”, “\$33,696”, “\$40,248”, “\$49,608”, and “\$59,160”, respectively; and

(2) by striking "\$29,250", "\$32,760", "\$40,170", "\$50,310", and "\$56,885" and inserting "\$35,100", "\$39,312", "\$48,204", "\$60,372", and "\$68,262", respectively.

(b) SECTION 213 LIMITS.—Section 213(b)(2) of the National Housing Act (12 U.S.C. 1715e(b)(2)) is amended—

(1) by striking "\$25,350", "\$28,080", "\$33,540", "\$41,340", and "\$46,800" and inserting "\$30,420", "\$33,696", "\$40,248", "\$49,608", and "\$59,160", respectively; and

(2) by striking "\$29,250", "\$32,760", "\$40,170", "\$50,310", and "\$56,885" and inserting "\$35,100", "\$39,312", "\$48,204", "\$60,372", and "\$68,262", respectively.

(c) SECTION 220 LIMITS.—Section 220(d)(3)(B)(iii) of the National Housing Act (12 U.S.C. 1715k(d)(3)(B)(iii)) is amended—

(1) by striking "\$25,350", "\$28,080", "\$33,540", "\$41,340", and "\$46,800" and inserting "\$30,420", "\$33,696", "\$40,248", "\$49,608", and "\$59,160", respectively; and

(2) by striking "\$29,250", "\$32,760", "\$40,170", "\$50,310", and "\$56,885" and inserting "\$35,100", "\$39,312", "\$48,204", "\$60,372", and "\$68,262", respectively.

(d) SECTION 221(d)(3) LIMITS.—Section 221(d)(3)(ii) of the National Housing Act (12 U.S.C. 1715l(d)(3)(ii)) is amended by

striking "\$28,032", "\$32,321", "\$38,979", "\$49,893", "\$55,583", "\$29,500", "\$33,816", "\$41,120", "\$53,195", and "\$58,392" and inserting "\$33,638", "\$38,785", "\$46,775", "\$59,872", "\$66,700", "\$35,400", "\$40,579", "\$49,344", "\$63,834", and "\$70,070", respectively.

12 USC 1715l.

(e) SECTION 221(d)(4) LIMITS.—Section 221(d)(4)(ii) of the National Housing Act (12 U.S.C. 1715l(d)(4)(ii)) is amended by striking "\$25,228", "\$28,636", "\$34,613", "\$43,446", "\$49,231", "\$27,251", "\$31,239", "\$37,986", "\$49,140", and "\$53,942" and inserting "\$30,274", "\$34,363", "\$41,536", "\$52,135", "\$59,077", "\$32,701", "\$37,487", "\$45,583", "\$58,968", and "\$64,730", respectively.

(f) SECTION 231 LIMITS.—Section 231(c)(2) of the National Housing Act (12 U.S.C. 1715v(c)(2)) is amended—

(1) by striking "\$23,985", "\$26,813", "\$32,019", "\$38,532", and "\$45,300" and inserting "\$28,782", "\$32,176", "\$38,423", "\$46,238", and "\$54,360", respectively; and

(2) by striking "\$27,251", "\$31,239", "\$37,986", "\$49,140", and "\$53,942" and inserting "\$32,701", "\$37,487", "\$45,583", "\$58,968", and "\$64,730", respectively.

(g) SECTION 234 LIMITS.—Section 234(e)(3) of the National Housing Act (12 U.S.C. 1715y(e)(3)) is amended—

(1) by striking "\$25,350", "\$28,080", "\$33,540", "\$41,340", and "\$46,800" and inserting "\$30,420", "\$33,696", "\$40,248", "\$49,608", and "\$59,160", respectively; and

(2) by striking "\$29,250", "\$32,760", "\$40,170", "\$50,310", and "\$56,885" and inserting "\$35,100", "\$39,312", "\$48,204", "\$60,372", and "\$68,262", respectively.

(h) REGULATIONS.—The Secretary of Housing and Urban Development shall issue regulations necessary to carry out the amendments made by subsections (a) through (g), which shall take effect not later than the expiration of the 1-year period beginning on the date of the enactment of this Act.

12 USC 1713  
note.

(i) CONFORMING AMENDMENTS.—Clauses (i)(II) and (ii)(II) of section 21A(c)(9)(E) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(9)(E)) are each amended by striking "the applicable dollar amount" and all that follows through "areas" and inserting the following: "for such part of the property as may be attributable

to dwelling use (excluding exterior land improvements), \$29,500 per family unit without a bedroom, \$33,816 per family unit with 1 bedroom, \$41,120 per family unit with 2 bedrooms, \$53,195 per family unit with 3 bedrooms, and \$58,392 per family unit with 4 or more bedrooms”.

**SEC. 510. INSURANCE OF LOANS FOR OPERATING LOSSES OF MULTI-FAMILY PROJECTS.**

Section 223(d) of the National Housing Act (12 U.S.C. 1715n(d)) is amended by adding at the end the following new paragraph:

“(6) In determining the amount of an operating loss loan to be insured pursuant to this subsection, the Secretary shall not reduce such amount solely to reflect any amounts placed in escrow (at the time the existing project mortgage was insured) for initial operating deficits. If an operating loss loan was insured by the Secretary pursuant to this subsection before the date of the enactment of the Housing and Community Development Act of 1992 and was reduced solely to reflect the amount placed in escrow for initial operating deficits, the Secretary shall insure, to the extent of the availability of insurance authority provided in appropriation Acts, an increase in the existing loan or a separate loan, in an amount equal to the lesser of (A) the maximum amount permitted under this subsection and the applicable underwriting requirements established by the Secretary and in effect at the time the loan is to be made, or (B) the amount of the escrow for initial operating deficits.”.

**SEC. 511. ELIGIBILITY OF ASSISTED LIVING FACILITIES FOR MORTGAGE INSURANCE UNDER SECTION 232.**

(a) **PURPOSE.**—Section 232(a) of the National Housing Act (12 U.S.C. 1715w(a)) is amended—

(1) in the matter preceding paragraph (1), by striking “either” and inserting “any”; and

(2) by adding at the end the following new paragraph:

“(3) The development of assisted living facilities for the care of frail elderly persons.”

(b) **DEFINITIONS.**—Section 232(b) of the National Housing Act (12 U.S.C. 1715w(b)) is amended—

(1) in paragraph (4), by striking “and” at the end;

(2) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

“(6) the term ‘assisted living facility’ means a public facility, proprietary facility, or facility of a private nonprofit corporation that—

“(A) is licensed and regulated by the State (or if there is no State law providing for such licensing and regulation by the State, by the municipality or other political subdivision in which the facility is located);

“(B) makes available to residents supportive services to assist the residents in carrying out activities of daily living, such as bathing, dressing, eating, getting in and out of bed or chairs, walking, going outdoors, using the toilet, laundry, home management, preparing meals, shopping for personal items, obtaining and taking medication, managing money, using the telephone, or performing light or heavy housework, and which may make available to



residents home health care services, such as nursing and therapy; and

“(C) provides separate dwelling units for residents, each of which may contain a full kitchen and bathroom, and which includes common rooms and other facilities appropriate for the provision of supportive services to the residents of the facility; and

“(7) the term ‘frail elderly person’ has the meaning given the term in section 802(k) of the Cranston-Gonzalez National Affordable Housing Act.”.

(c) MORTGAGE REQUIREMENTS.—Section 232(d) of the National Housing Act (12 U.S.C. 1715w(d)) is amended—

(1) in the matter preceding paragraph (1)—

(A) by inserting “, assisted living facility,” before “or intermediate care facility”;

(B) by striking “combined nursing home and intermediate care facility” and inserting “any combination of nursing home, assisted living facility, and intermediate care facility”; and

(C) by inserting after “intermediate care facility” the first place it appears the following: “, including a new addition to an existing nursing home, assisted living facility, or intermediate care facility and regardless of whether the existing home or facility is being rehabilitated.”;

(2) in paragraph (2), in the matter preceding subparagraph (A), by inserting “or 95 percent of the estimated value of the property or project in the case of a mortgagor that is a private nonprofit corporation or association (under the meaning given such term for purposes of section 221(d)(3) of this Act),” before “including”;

(3) in paragraph (3), by adding at the end the following: “The Secretary shall not promulgate regulations or establish terms or conditions that interfere with the ability of the mortgagor and mortgagee to determine the interest rate; and

(4) in paragraph (4), by adding at the end the following new subparagraph:

“(C) With respect to assisted living facilities or any such facility combined with any other home or facility, the Secretary shall not insure any mortgage under this section unless—

“(i) the Secretary determines that the level of financing acquired by the mortgagor and any other resources available for the facility will be sufficient to ensure that the facility contains dwelling units and facilities for the provision of supportive services in accordance with subsection (b)(6);

“(ii) the mortgagor provides assurances satisfactory to the Secretary that each dwelling unit in the facility will not be occupied by more than 1 person without the consent of all such occupants; and

“(iii) the appropriate State licensing agency for the State, municipality, or other political subdivision in which the facility is or is to be located provides such assurances as the Secretary considers necessary that the facility will comply with any applicable standards and requirements for such facilities.”.

(d) **FIRE SAFETY EQUIPMENT.**—Section 232(i)(1) of the National Housing Act (12 U.S.C. 1715w(i)(1)) is amended by inserting “, assisted living facilities,” after “nursing homes”.

(e) **ADMINISTRATION.**—Section 232 of the National Housing Act (12 U.S.C. 1715w) is amended by adding at the end the following new subsection:

Reports.

“(j) The Secretary shall establish schedules and deadlines for the processing and approval (or provision of notice of disapproval) of applications for mortgage insurance under this section. The Secretary shall submit a report to the Congress annually describing such schedules and deadlines and the extent of compliance by the Department with the schedules and deadlines during the year.”.

(f) **AUTHORITY TO INSURE REFINANCING.**—Section 223(f) of the National Housing Act (12 U.S.C. 1715n(f)) is amended by inserting “existing assisted living facility,” after “existing nursing home,” each place it appears.

**SEC. 512. EXPEDITING INSURANCE FOR ACQUISITION OF RESOLUTION TRUST CORPORATION PROPERTY.**

(a) **IN GENERAL.**—Section 534 of the National Housing Act (12 U.S.C. 1735f-12) is amended—

(1) by inserting “(a) STATE OFFICES.—” after “534.”; and

(2) by adding at the end the following new subsection:

“(b) **EXPEDITED PROCEDURE FOR RTC PROPERTIES.**—To assist the Resolution Trust Corporation in disposing of the property to which it acquires title and to ensure the timely processing of applications for insurance of loans and mortgages under this Act that will be used to purchase multifamily residential property from the Resolution Trust Corporation, the Secretary shall establish an expedited procedure for considering such applications.”.

Regulations.  
12 USC  
1735f-12.

(b) **IMPLEMENTATION.**—The procedure referred to in the amendment made by subsection (a) shall be established through interim and final regulations issued by the Secretary. The Secretary shall issue interim regulations implementing the procedure not later than the expiration of the 90-day period beginning on the date of the enactment of this Act, which shall be effective upon issuance. The Secretary shall issue final regulations after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section).

42 USC 12712  
note.

**SEC. 513. ENERGY EFFICIENT MORTGAGES PILOT PROGRAM.**

(a) **ESTABLISHMENT OF PILOT PROGRAM.**—

(1) **IN GENERAL.**—Not later than 6 months after the date of enactment of this Act, the Secretary of Housing and Urban Development (hereafter referred to as the “Secretary”) shall establish an energy efficient mortgage pilot program in 5 States, to promote the purchase of existing energy efficient residential buildings and the installation of cost-effective improvements in existing residential buildings.

(2) **PILOT PROGRAM.**—The pilot program established under this subsection shall include the following criteria, where applicable:

(A) **ORIGINATION.**—The lender shall originate a housing loan that is insured under title II of the National Housing Act in accordance with the applicable requirements.

(B) APPROVAL.—The mortgagor's base loan application shall be approved if the mortgagor's income and credit record is found to be satisfactory.

(C) COST OF IMPROVEMENTS.—The cost of cost-effective energy efficiency improvements shall not exceed the greater of—

- (i) 5 percent of the property value (not to exceed \$8,000); or
- (ii) \$4,000.

(3) AUTHORITY FOR MORTGAGEES.—In granting mortgages under the pilot program established pursuant to this subsection, the Secretary shall grant mortgagees the authority—

(A) to permit the final loan amount to exceed the loan limits established under title II of the National Housing Act by an amount not to exceed 100 percent of the cost of the cost-effective energy efficiency improvements, if the mortgagor's request to add the cost of such improvements is received by the mortgagee prior to funding of the base loan;

(B) to hold in escrow all funds provided to the mortgagor to undertake the energy efficiency improvements until the efficiency improvements are actually installed; and

(C) to transfer or sell the energy efficient mortgage to the appropriate secondary market agency, after the mortgage is issued, but before the energy efficiency improvements are actually installed.

(4) PROMOTION OF PILOT PROGRAM.—The Secretary shall encourage participation in the energy efficient mortgage pilot program by—

(A) making available information to lending agencies and other appropriate authorities regarding the availability and benefits of energy efficient mortgages;

(B) requiring mortgagees and designated lending authorities to provide written notice of the availability and benefits of the pilot program to mortgagors applying for financing in those States designated by the Secretary as participating under the pilot program; and

(C) requiring each applicant for a mortgage insured under title II of the National Housing Act in those States participating under the pilot program to sign a statement that such applicant has been informed of the program requirements and understands the benefits of energy efficient mortgages.

(5) TRAINING PROGRAM.—Not later than 9 months after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Energy, shall establish and implement a program for training personnel at relevant lending agencies, real estate companies, and other appropriate organizations regarding the benefits of energy efficient mortgages and the operation of the pilot program under this subsection.

Establishment.

(6) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall prepare and submit a report to the Congress describing the effectiveness and implementation of the energy efficient mortgage pilot program as described under this subsection, and assessing the potential for expanding the pilot program nationwide.

## Reports.

(b) **EXPANSION OF PROGRAM.**—Not later than the expiration of the 2-year period beginning on the date of the implementation of the energy efficient mortgage pilot program under this section, the Secretary of Housing and Urban Development shall expand the pilot program on a nationwide basis and shall expand the program to include new residential housing, unless the Secretary determines that either such expansion would not be practicable in which case the Secretary shall submit to the Congress, before the expiration of such period, a report explaining why either expansion would not be practicable.

(c) **DEFINITIONS.**—For purposes of this section:

(1) The term “base loan” means any mortgage loan for a residential building eligible for insurance under title II of the National Housing Act or title 38, United States Code, that does not include the cost of cost-effective energy improvements.

(2) The term “cost-effective” means, with respect to energy efficiency improvements to a residential building, improvements that result in the total present value cost of the improvements (including any maintenance and repair expenses) being less than the total present value of the energy saved over the useful life of the improvement, when 100 percent of the cost of improvements is added to the base loan. For purposes of this paragraph, savings and cost-effectiveness shall be determined pursuant to a home energy rating report sufficient for purposes of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, or by other technically accurate methods.

(3) The term “energy efficient mortgage” means a mortgage on a residential building that recognizes the energy savings of a home that has cost-effective energy saving construction or improvements (including solar water heaters, solar-assisted air conditioners and ventilators, super-insulation, and insulating glass and film) and that has the effect of not disqualifying a borrower who, but for the expenditures on energy saving construction or improvements, would otherwise have qualified for a base loan.

(4) The term “residential building” means any attached or unattached single family residence.

(d) **RULE OF CONSTRUCTION.**—This section may not be construed to affect any other programs of the Secretary of Housing and Urban Development for energy-efficient mortgages. The pilot program carried out under this section shall not replace or result in the termination of such other programs.

(e) **REGULATIONS.**—The Secretary shall issue any regulations necessary to carry out this section not later than the expiration of the 180-day period beginning on the date of the enactment of this Act. The regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(3), and (d)(3) of such section).

(f) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as may be necessary to carry out this section.

**SEC. 514. STUDY REGARDING HOME WARRANTY PLANS.**12 USC 1701j-1  
note.

(a) **IN GENERAL.**—The Secretary of Housing and Urban Development (hereafter in this section referred to as the “Secretary”) shall conduct a study of home and builder’s warranties and protection plans regarding the construction of, and materials used in, 1- to 4-family dwellings subject to mortgages insured under title II of the National Housing Act.

(b) **SCOPE OF STUDY.**—The study shall analyze—

(1) the extent to which home sellers and builders use such warranties and plans,

(2) how such warranties and plans affect the single family mortgage insurance program under the National Housing Act and the solvency of the Mutual Mortgage Insurance Fund,

(3) any effects on homeowners of reliance upon such warranties and plans,

(4) the cost of inspections of mortgaged homes not covered by such warranties or plans,

(5) how quickly the issuers of such warranties and plans pay claims to homeowners under the warranties and plans,

(6) how well such warranties and plans provide for the prevention of structural damage before damage occurs,

(7) how responsive the issuers are to homeowner complaints,

(8) the extent to which homeowners are adequately informed of the extent of insurance coverage, the complaint procedures, and the arbitration procedures available to them under such warranties and plans,

(9) the extent to which the arbitration process used to settle claims under such warranties and plans provides fair and reasonable relief for homeowners,

(10) how well homeowners are informed of their right to appeal the decision of such arbitrators to the Secretary,

(11) whether the reporting and inspection requirements to which such warranties and plans are subject provide the Secretary with sufficient information to verify that such warranties and plans are acceptable,

(12) whether dwellings covered by such warranties and plans satisfy all requirements which would have been applicable if such dwellings had been approved for mortgage insurance by the Secretary before the beginning of construction, and

(13) any other issues relating to such warranties and plans that the Secretary considers appropriate.

(c) **REPORT.**—The Secretary shall submit a report to the Congress regarding the findings of the study and any recommendations of the Secretary resulting from the study, not later than the expiration of the 12-month period beginning on the date of the enactment of this Act.

**SEC. 515. EXPENDITURES TO CORRECT DEFECTS.**

Section 518(a) of the National Housing Act (12 U.S.C. 1735b(a)) is amended—

(1) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively; and

(2) by striking out “The Secretary” and all that follows through “make expenditures for” and inserting in lieu thereof the following:

“(1) The Secretary is authorized to make expenditures under this subsection with respect to any property that—

“(A) is a condominium unit (including common areas) or is improved by a one-to-four family dwelling;

“(B) was approved, before the beginning of construction, for mortgage insurance under this Act or for guaranty, insurance, or direct loan under chapter 37 of title 38, United States Code, or was less than a year old at the time of insurance of the mortgage and was covered by a consumer protection or warranty plan acceptable to the Secretary; and

“(C) the Secretary finds to have structural defects.

“(2) Expenditures under this subsection may be made for”.

#### SEC. 516. PAYMENT OF MORTGAGE INSURANCE CLAIMS.

(a) PAYMENT OF INSURANCE.—Section 204 of the National Housing Act (12 U.S.C. 1710) is amended—

(1) in the fifth sentence of subsection (a), by striking “, subject to the cash adjustment hereinafter provided, issue to the mortgagee debentures having a total face value” and insert in lieu thereof the following: “issue to the mortgagee debentures having a par value”;

(2) by striking subsection (c) and inserting the following: “(c) Debentures issued under this section—

“(1) shall be in such form and amounts;

“(2) shall be subject to such terms and conditions;

“(3) shall include such provisions for redemption, if any, as may be prescribed by the Secretary of Housing and Urban Development, with the approval of the Secretary of the Treasury; and

“(4) may be in book entry or certificated registered form, or such other form as the Secretary of Housing and Urban Development may prescribe in regulations.”;

(3) in the first sentence of subsection (d)—

(A) by striking “executed” and inserting “issued”; and

(B) by striking “, shall be signed by the Secretary by either his written or engraved signature, and shall be negotiable” and inserting the following: “and shall be negotiable, and, if in book entry form, transferable, in the manner described by the Secretary in regulations”; and

(4) by striking in the fifth sentence of subsection (d) “and such guaranty” and inserting the following: “and, in the case of debentures issued in certificated registered form, such guaranty”.

(b) RENTAL HOUSING INSURANCE.—Section 207 of the National Housing Act (12 U.S.C. 1713) is amended—

(1) by striking in the second sentence of subsection (g) “, subject to the cash adjustment provided for in subsection (j), issue to the mortgagee a certificate of claim as provided in subsection (h), and debentures having a total face value” and inserting the following: “issue to the mortgagee a certificate of claim as provided in subsection (h), and debentures having a par value”;

(2) by striking in the first sentence of subsection (i) “shall be signed by the Secretary, by either his written or engraved signature, shall be negotiable” and inserting the following:

"shall be negotiable, and, if in book entry form, transferable, in the manner described by the Secretary in regulations";

(3) by striking in the fourth sentence of subsection (i) "and such guaranty" and inserting the following: "and, in the case of debentures issued in certificated registered form, such guaranty"; and

(4) by striking subsection (j) and inserting the following: "(j) Debentures issued under this section—

"(1) shall be in such form and amounts;

"(2) shall be subject to such terms and conditions;

"(3) shall include such provisions for redemption, if any, as may be prescribed by the Secretary of Housing and Urban Development, with the approval of the Secretary of the Treasury; and

"(4) may be in book entry or certificated registered form, or such other form as the Secretary of Housing and Urban Development may prescribe in regulations.".

(c) REHABILITATION AND NEIGHBORHOOD CONSERVATION HOUSING INSURANCE.—Section 220(h) of the National Housing Act (12 U.S.C. 1715k) is amended—

(1) by striking in the first sentence of paragraph (7), "shall be signed by the Secretary, by either his written or engraved signature, shall be negotiable" and inserting the following: "shall be negotiable, and, if in book entry form, transferable, in the manner described by the Secretary in regulations";

(2) by striking in the fourth sentence of paragraph (h)(7) "and the guaranty" and inserting the following: "and, in the case of debentures issued in certificated registered form, the guaranty";

(3) by striking the sixth sentence of paragraph (7), and inserting the following: "Debentures issued under this subsection shall be in such form and amounts; shall be subject to such terms and conditions; and shall include such provisions for redemption, if any, as may be prescribed by the Secretary of Housing and Urban Development, with the approval of the Secretary of the Treasury; and may be in book entry or certificated registered form, or such other form as the Secretary of Housing and Urban Development may prescribe in regulations."; and

(4) by striking the last sentence of paragraph (7).

(d) HOUSING FOR MODERATE INCOME AND DISPLACED FAMILIES.—The second sentence of section 221(g)(4)(A) of the National Housing Act (12 U.S.C. 1715l(g)(4)(A)) is amended by striking ", subject to the cash adjustment provided herein, issue to the mortgagee debentures having total face value" and inserting the following: "issue to the mortgagee debentures having a par value".

12 USC 1715l.

#### SEC. 517. COVERAGE OF THE MULTIFAMILY MORTGAGE FORECLOSURE ACT.

(a) PURPOSES.—Section 362 of the Multifamily Mortgage Foreclosure Act of 1981 (12 U.S.C. 3701) is amended—

(1) in subsection (a)(1), by striking "real estate" and all that follows through "properties" and inserting: "multifamily mortgages"; and

(2) in subsection (b), by striking "multiunit" and all that follows through "1964" and inserting "multifamily mortgages".

(b) **DEFINITION.**—Section 363(2) of the Multifamily Mortgage Foreclosure Act of 1981 (12 U.S.C. 3702(2)) is amended to read as follows:

“(2) ‘multifamily mortgage’ means a mortgage held by the Secretary pursuant to—

“(A) section 608 or 801, or title II or X, of the National Housing Act;

“(B) section 312 of the Housing Act of 1964, as it existed immediately before its repeal by section 289 of the Cranston-Gonzalez National Affordable Housing Act;

“(C) section 202 of the Housing Act of 1959, as it existed immediately before its amendment by section 801 of the Cranston-Gonzalez National Affordable Housing Act;

“(D) section 202 of the Housing Act of 1959, as amended by section 801 of the Cranston-Gonzalez National Affordable Housing Act; and

“(E) section 811 of the Cranston-Gonzalez National Affordable Housing Act.”

(c) **PREREQUISITES TO FORECLOSURE.**—The last sentence of section 366 of the Multifamily Mortgage Foreclosure Act of 1981 (12 U.S.C. 3705) is amended by striking “status” and all that follows through “rents” and inserting the following: “status, relief under an assignment of rents, or transfer to a nonprofit entity pursuant to section 202 of the Housing Act of 1959 (as amended by section 801 of the Cranston-Gonzalez National Affordable Housing Act) or section 811 of the Cranston-Gonzalez National Affordable Housing Act”.

(d) **NOTICE.**—Section 367(b)(1) of the Multifamily Mortgage Foreclosure Act of 1981 (12 U.S.C. 3706(b)(1)) is amended to read as follows:

“(b)(1) Except as provided in paragraph (2)(A), the Secretary may require, as a condition and term of sale, that the purchaser at a foreclosure sale under this part agree to continue to operate the security property in accordance with the terms of the program under which the mortgage insurance or assistance was provided, or any applicable regulatory or other agreement in effect with respect to such property immediately prior to the time of foreclosure sale.”

#### **SEC. 518. MORTGAGEE REVIEW BOARD.**

Section 202(c)(3)(C) of the National Housing Act (12 U.S.C. 1708(c)(3)(C)) is amended—

(1) by inserting “temporarily” after “order”;

(2) by inserting “(i)” after “Administration if”;

(3) by inserting “(ii)” after “violations and”; and

(4) by striking the period after “6 months” and inserting the following: “, and for not longer than 1 year. The Board may extend the suspension for an additional 6 months if it determines the extension is in the public interest. If the Board and the mortgagee agree, these time limits may be extended.”

#### **SEC. 519. DEFINITION OF MORTGAGEE.**

Section 202(c) of the National Housing Act (12 U.S.C. 1708(c)) is amended—

(1) by striking paragraph (6)(D); and

(2) by redesignating paragraph (7) as paragraph (8), and inserting the following after paragraph (6):



“(7) DEFINITION OF ‘MORTGAGEE’.—For purposes of this subsection, the term ‘mortgagee’ means—

“(A) a mortgagee approved under this Act;

“(B) a lender or a loan correspondent approved under title I of this Act;

“(C) a branch office or subsidiary of the mortgagee, lender, or loan correspondent; or

“(D) a director, officer, employee, agent, or other person participating in the conduct of the affairs of the mortgagee, lender, or loan correspondent.”.

**SEC. 520. EXEMPTION FROM SECTION 137(b) OF THE TRUTH IN LENDING ACT.**

Section 255(j) of the National Housing Act (12 U.S.C. 1715z-20(j)) is amended by adding at the end the following: “Section 137(b) of the Truth in Lending Act (15 U.S.C. 1647(b)) and any implementing regulations issued by the Board of Governors of the Federal Reserve System shall not apply to a mortgage insured under this section.”.

## **Subtitle B—Secondary Mortgage Market Programs**

**SEC. 531. LIMITATION ON GNMA GUARANTEES OF MORTGAGE-BACKED SECURITIES.**

Section 306(g)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1721(g)(2)) is amended to read as follows:

“(2) Notwithstanding any other provision of law and subject only to the absence of qualified requests for guarantees, to the authority provided in this subsection, and to the extent of or in such amounts as any funding limitation approved in appropriation Acts, the Association shall enter into commitments to issue guarantees under this subsection in an aggregate amount of \$88,000,000,000 during fiscal year 1993 and \$91,696,000,000 during fiscal year 1994. There is authorized to be appropriated such sums as may be necessary to cover the costs (as such term is defined in section 502 of the Congressional Budget Act of 1974) of guarantees issued under this Act by the Association.”.

Appropriation  
authorization.

**SEC. 532. AUTHORITY FOR GNMA TO MAKE HARDSHIP INTEREST PAYMENTS.**

Section 306(g)(1) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1721(g)(1)) is amended by inserting after the period at the end of the third sentence the following new sentence: “In any case in which (I) Federal law requires the reduction of the interest rate on any mortgage backing a security guaranteed under this subsection, (II) the mortgagor under the mortgage is a person in the military service, and (III) the issuer of such security fails to receive from the mortgagor the full amount of interest payment due, the Association may make payments of interest on the security in amounts not exceeding the difference between the amount payable under the interest rate on the mortgage and the amount of interest actually paid by the mortgagor.”.

Multifamily  
Housing Finance  
Improvement  
Act.  
12 USC 1707.

## Subtitle C—Improvement of Financing for Multifamily Housing

### SEC. 541. SHORT TITLE.

This subtitle may be cited as the “Multifamily Housing Finance Improvement Act”.

### SEC. 542. MULTIFAMILY MORTGAGE CREDIT DEMONSTRATIONS.

(a) **IN GENERAL.**—The Secretary of Housing and Urban Development (hereinafter referred to as the “Secretary”) shall carry out programs through the Federal Housing Administration to demonstrate the effectiveness of providing new forms of Federal credit enhancement for multifamily loans. In carrying out demonstration programs, the Secretary shall include an evaluation of the effectiveness of entering into partnerships or other contractual arrangements including reinsurance and risk-sharing agreements with State or local housing finance agencies, the Federal Housing Finance Board, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, qualified financial institutions, and other State or local mortgage insurance companies or bank lending consortia.

#### (b) **RISK-SHARING PILOT PROGRAM.**—

(1) **IN GENERAL.**—The Secretary shall carry out a pilot program through the Federal Housing Administration to provide for risk sharing related to mortgages on multifamily housing.

(2) **AUTHORITY FOR REINSURANCE AGREEMENTS.**—The Secretary may enter into reinsurance agreements (as such term is defined in section 544) with the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, qualified financial institutions, qualified housing finance agencies, and the Federal Housing Finance Board. The agreements may provide for risk-sharing and other forms of credit enhancement with respect to mortgage lending on multifamily housing, including reinsurance with respect to pools of loans on multifamily housing properties, that the Secretary determines to be appropriate to carry out the purposes of this subsection. The agreements shall be in a form and have such terms and conditions as the Secretary determines to be appropriate to carry out the purposes of this subsection.

(3) **DEVELOPMENT OF ALTERNATIVES.**—The Secretary shall develop and assess a variety of risk-sharing alternatives, including arrangements under which the Secretary assumes an appropriate share of the risk related to long-term mortgage loans on newly constructed or acquired multifamily rental housing, mortgage refinancings, bridge financing for construction, and other forms of multifamily housing mortgage lending that the Secretary deems appropriate to carry out the purposes of this subsection. Such alternatives shall be designed—

(A) to ensure that other parties bear a share of the risk, in percentage amount and in position of exposure, that is sufficient to create strong, market-oriented incentives for other participating parties to maintain sound underwriting and loan management practices;

(B) to develop credit mechanisms, including sound underwriting criteria, processing methods, and credit

enhancements, through which resources of the Federal Housing Administration can assist in increasing multifamily housing lending as needed to meet the expected need in the United States;

(C) to provide a more adequate supply of mortgage credit for sound multifamily rental housing projects in underserved urban and rural markets;

(D) to encourage major financial institutions to expand their participation in mortgage lending for sound multifamily housing, through means such as mitigating uncertainties regarding actions of the Federal Government (including the possible failure to renew short-term subsidy contracts);

(E) to increase the efficiency, and lower the costs to the Federal Government, of processing and servicing multifamily housing mortgage loans insured by the Federal Housing Administration; and

(F) to improve the quality and expertise of Federal Housing Administration staff and other resources, as required for sound management of reinsurance and other market-oriented forms of credit enhancement.

(4) **ELIGIBILITY STANDARDS.**—The Secretary shall establish and enforce standards for financial institutions and entities to be eligible to enter into reinsurance agreements under this subsection, as the Secretary determines to be appropriate.

(5) **FUNDING.**—Using any authority provided in appropriation Acts to insure loans under the National Housing Act, the Secretary may enter into commitments under this subsection for risk sharing with respect to mortgages on not more than 15,000 units over fiscal years 1993 and 1994. The demonstration authorized under this subsection shall not be expanded until the reports required under subsection (d) are submitted to Congress.

(6) **FEES.**—The Secretary shall establish and collect premiums and fees under this subsection as the Secretary determines appropriate to (A) achieve the purpose of this subsection, and (B) compensate the Federal Housing Administration for the risks assumed and related administrative costs.

(7) **NON-FEDERAL PARTICIPATION.**—The Secretary shall carry out this subsection, to the maximum extent practicable, with the participation of well-established residential mortgage originators, financial institutions that invest in multifamily housing mortgages, multifamily housing sponsors, and such other private sector experts in multifamily housing finance as the Secretary determines to be appropriate.

(8) **TIMING.**—The Secretary shall take any administrative actions necessary to initiate the pilot program under this subsection not later than the expiration of the 8-month period beginning on the date of the enactment of this Act.

(c) **HOUSING FINANCE AGENCY PILOT PROGRAM.**—

(1) **IN GENERAL.**—The Secretary shall carry out a specific pilot program in conjunction with qualified housing finance agencies to test the effectiveness of Federal credit enhancement for loans for affordable multifamily housing through a system of risk-sharing agreements with such agencies.

(2) **PILOT PROGRAM REQUIREMENTS.**—

(A) **IN GENERAL.**—In carrying out the pilot program authorized under this subsection, the Secretary shall enter

into risk-sharing agreements with qualified housing finance agencies.

(B) **MORTGAGE INSURANCE.**—Agreements under subparagraph (A) shall provide for full mortgage insurance through the Federal Housing Administration of the loans for affordable multifamily housing originated by or through qualified housing finance agencies and for reimbursement to the Secretary by such agencies for either all or a portion of the losses incurred on the loans insured.

(C) **RISK APPORTIONMENT.**—Agreements entered into under this subsection between the Secretary and a qualified housing finance agency shall specify the percentage of loss that each of the parties to the agreement will assume in the event of default of the insured multifamily mortgage. Such agreements shall specify that the qualified housing finance agency and the Secretary shall share equally the full amount of any loss on the insured mortgage.

(D) **REIMBURSEMENT CAPACITY.**—Agreements entered into under this subsection between the Secretary and a qualified housing finance agency shall provide evidence of the capacity of such agency to fulfill any reimbursement obligations made pursuant to this subsection. Evidence of such capacity may include—

(i) a pledge of the full faith and credit of a qualified State or local agency to fulfill any obligations entered into by the qualified housing finance agency;

(ii) reserves pledged or otherwise restricted by the qualified housing finance agency in an amount equal to an agreed upon percentage of the loss assumed by the housing finance agency under subparagraph (C);

(iii) funds pledged through a State or local guarantee fund; or

(iv) any other form of evidence mutually agreed upon by the Secretary and the qualified housing finance agency.

(E) **UNDERWRITING STANDARDS.**—The Secretary shall allow any qualified housing finance agency to use its own underwriting standards and loan terms and conditions for purposes of underwriting loans to be insured under this subsection without further review by the Secretary, except that the Secretary may impose additional underwriting criteria and loan terms and conditions for contractual agreements where the Secretary retains more than 50 percent of the risk of loss.

(3) **MORTGAGE INSURANCE PREMIUMS.**—The Secretary shall establish a schedule of insurance premium payments for mortgages insured under this subsection based on the percentage of loss the Secretary may assume. Such schedule shall reflect lower or nominal premiums for qualified housing finance agencies that assume a greater share of the risk apportioned according to paragraph (2)(C).

(4) **LIMITATION ON INSURANCE AUTHORITY.**—Using any authority provided by appropriations Acts to insure mortgages under the National Housing Act, the Secretary may enter into commitments under this subsection with respect to mortgages on not to exceed 30,000 units over fiscal years 1993, 1994,

and 1995. The demonstration authorized under this subsection shall not be expanded until the reports required under subsection (d) are submitted to the Congress.

(5) **IDENTITY OF INTEREST.**—Notwithstanding any other provision of law, the Secretary shall not apply identity of interest provisions to agreements entered into with qualified State housing finance agencies under this subsection.

(6) **PROHIBITION ON GINNIE MAE SECURITIZATION.**—The Government National Mortgage Association shall not securitize any multifamily loans insured under this subsection.

(7) **QUALIFICATION AS AFFORDABLE HOUSING.**—Multifamily housing securing loans insured under this subsection shall qualify as affordable only if the housing is occupied by very low-income families and bears rents not greater than the gross rent for rent-restricted residential units as determined under section 42(g)(2) of the Internal Revenue Code of 1986.

(8) **REGULATIONS.**—Not later than 90 days after the date of enactment of this Act, the Secretary shall issue such regulations as may be necessary to carry out this subsection.

(d) **INDEPENDENT STUDIES AND REPORTS.**—

(1) **FEDERAL NATIONAL MORTGAGE ASSOCIATION.**—The Federal National Mortgage Association, in consultation with representatives of its seller-servicers and State housing finance agencies, shall carry out an independent assessment of alternative methods for achieving the purposes of this section and shall submit a report containing any findings and recommendations, including any recommendations for legislative or administrative action, simultaneously to the Secretary and the Congress not later than 12 months after the date of the enactment of this Act.

(2) **FEDERAL HOME LOAN MORTGAGE CORPORATION.**—The Federal Home Loan Mortgage Corporation, in consultation with representatives of its seller-servicers and State housing finance agencies, shall carry out an independent assessment of alternative methods for achieving the purposes of this section and shall submit a report containing any findings and recommendations, including any recommendations for legislative or administrative action, simultaneously to the Secretary and the Congress not later than 12 months after the date of the enactment of this Act.

(3) **SECRETARY.**—The Secretary shall submit to the Congress, and publish, reports under this paragraph assessing the activities carried out under each of the pilot programs. The Secretary shall submit and publish a preliminary report under this paragraph not later than 9 months after the date of the implementation of each of the pilot programs, and a final report not later than 24 months after the date of implementation on which the pilot program is initiated, which shall include any recommendations by the Secretary for legislative changes to achieve the purposes of this section.

(4) **COMPTROLLER GENERAL.**—The Comptroller General of the United States shall carry out an evaluation of each of the pilot programs under this section and shall submit to the Congress, not later than 30 months after the date of implementation for each of the pilot programs, a report regarding the evaluation, together with any recommendations for legislative changes to achieve the purposes of this section.

The Comptroller General shall also submit to the Congress a report containing a preliminary assessment of the pilot program not later than 18 months after the date of enactment of this Act.

(5) **FEDERAL HOUSING FINANCE BOARD.**—The Federal Housing Finance Board shall monitor and assess the activities carried out under the pilot programs under this section. The Federal Housing Finance Board shall submit a preliminary report containing any findings regarding such activities not later than 9 months after the date of the enactment of this Act, and a final report containing such findings not later than 24 months after the date on which the pilot program is initiated, which shall include any recommendations by the Board for legislative changes to achieve the purposes of this section.

**SEC. 543. NATIONAL INTERAGENCY TASK FORCE ON MULTIFAMILY HOUSING.**

(a) **PURPOSE.**—The purpose of this section is to establish a National Interagency Task Force on Multifamily Housing to develop recommendations for establishing a national database on multifamily housing loans.

(b) **ESTABLISHMENT OF TASK FORCE.**—There is established a Task Force known as the National Interagency Task Force on Multifamily Housing (hereafter in this section referred to as the "Task Force").

(c) **MEMBERSHIP OF TASK FORCE.**—

(1) **FEDERAL OFFICIALS.**—The Task Force shall be composed of—

- (A) the Secretary of Housing and Urban Development;
  - (B) the Chairperson of the Federal Housing Finance Board;
  - (C) the Comptroller of the Currency;
  - (D) the Chairman of the Board of Governors of the Federal Reserve System;
  - (E) the Director of the Office of Thrift Supervision;
  - (F) the Chairperson of the Federal Deposit Insurance Corporation;
  - (G) the Chairperson of the Federal National Mortgage Association; and
  - (H) the Chairperson of the Federal Home Loan Mortgage Corporation,
- or their designees, and the persons appointed under paragraphs (2) and (3).

(2) **APPOINTMENTS BY THE SECRETARY.**—The Secretary shall appoint as members of the Task Force—

- (A) 1 individual who is a representative of a State housing finance agency;
- (B) 1 individual who is a representative of a local housing finance agency;
- (C) 1 individual who is a representative of the building industry with experience in multifamily housing; and
- (D) 1 individual who is a representative of the life insurance industry with experience in multifamily loan performance data.

(3) **APPOINTMENTS BY THE CHAIRPERSON OF THE FHFB.**—The Chairman of the Federal Housing Finance Board shall appoint as members of the Task Force—

(A) 1 individual who is a representative from the financial services industry with experience in multifamily housing underwriting;

(B) 1 individual who is a representative from the non-profit housing development sector with experience in subsidized multifamily housing development; and

(C) 1 individual who is a representative from a nationally recognized rating agency.

(d) ADMINISTRATION.—

(1) CHAIRPERSONS.—The Task Force shall be chaired jointly by the Secretary and the Chairman of the Federal Housing Finance Board.

(2) MEETINGS.—The Task Force shall meet no less than 4 times, at the call of the Chairpersons of the Task Force.

(3) QUORUM.—A majority of the members of the Task Force shall constitute a quorum for the transaction of business.

(4) VOTING.—Each member of the Task Force shall be entitled to 1 vote, which shall be equal to the vote of every other member of the Task Force.

(5) VACANCIES.—Any vacancy on the Task Force shall not affect its powers, but shall be filled in the manner in which the original appointment was made.

(6) PROHIBITION ON ADDITIONAL PAY.—Members of the Task Force shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Task Force.

(e) FUNCTIONS OF THE TASK FORCE.—

(1) IN GENERAL.—The Task Force shall conduct a multifamily housing financial data project in order to improve the availability and efficiency of financing for multifamily rental housing. The project shall—

(A) analyze available data regarding the performance of multifamily housing mortgage loans in all regions of the country;

(B) prepare a comprehensive national database on the operation and financing of multifamily housing that will provide reliable information appropriate to meet the projected needs of lenders, investors, sponsors, property managers, and public officials;

(C) identify important factors that affect the long-term financial and operational soundness of multifamily housing properties, including factors relating to project credit risk, project underwriting, interest rate risk, real estate market conditions, public subsidies, tax policies, borrower characteristics, program management standards, and government policies;

(D) develop common definitions, standards, and procedures that will improve multifamily housing underwriting and accelerate the development of a strong, competitive, and efficient secondary market for multifamily housing loans; and

(E) make available appropriate information to various organizations in forms that will assist in improving multifamily housing loan underwriting and servicing.

(2) FINAL REPORT.—Not later than 1 year following the enactment of this Act, the Task Force shall submit to the

Congress a final report which shall contain the information, evaluations, and recommendations specified in paragraph (1).

(f) **AUTHORITY OF TASK FORCE.**—

(1) **RULES AND REGULATIONS.**—The Task Force may adopt such rules and regulations as may be necessary to establish its procedures and to govern the manner of its operations, organization and personnel.

(2) **ACCESS TO DATA.**—The members of the Task Force representing the Comptroller of the Currency, the Office of Thrift Supervision, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Secretary of Housing and Urban Development, the Federal Housing Finance Board, the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation shall make available to the Task Force a representative sample of multifamily housing mortgage loans in order for the Task Force to make its findings and recommendations, except that—

(A) all information obtained shall be used only for the purposes authorized in this section;

(B) the Task Force shall maintain the confidentiality of all such information obtained in the manner established for the material by the submitting entity, and such data shall not be subject to release under section 552 of title 5, United States Code;

(C) only aggregate data shall be publicly released by the Task Force unless it receives the explicit permission of the mortgage originator or government-sponsored enterprise from which the information is obtained; and

(D) any officer or employee of the Secretary, the Office of Thrift Supervision, the Board of Governors of the Federal Reserve, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, or the Federal Housing Finance Board shall be subject to the penalties under section 1906 of title 18, United States Code, if—

(i) by virtue of employment or official position, the officer or employee has possession of or access to any book, record, or information made available under this subsection and established as confidential under subparagraph (C); and

(ii) the officer or employee discloses the material in any manner other than to an officer or employee of the same Federal agency employing the officer or employee, or other than pursuant to the exemptions under section 1906.

(3) **SAMPLE DATA.**—In order to ensure a representative sample of multifamily housing data, the Department of Housing and Urban Development, the Office of Thrift Supervision, the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation are authorized to request loan data from a representative sample of mortgage originators or the government-sponsored enterprises regulated by these agencies, and mortgages originated by housing finance agencies and life insurance companies, except that—

(A) all information obtained shall be used only for the purposes authorized in this section;



(B) the Task Force shall maintain the confidentiality of all such information obtained in the manner established for the material by the submitting entity, and such data shall not be subject to release under section 552 of title 5, United States Code;

(C) only aggregate data shall be publicly released by the Task Force unless it receives the explicit permission of the mortgage originator or government-sponsored enterprise from which the information is obtained; and

(D) any officer or employee of the Secretary, the Office of Thrift Supervision, the Board of Governors of the Federal Reserve, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, or the Federal Housing Finance Board shall be subject to the penalties under section 1906 of title 18, United States Code, if—

(i) by virtue of employment or official position, the officer or employee has possession of or access to any book, record, or information made available under this subsection and established as confidential under subparagraph (C); and

(ii) the officer or employee discloses the material in any manner other than to an officer or employee of the same Federal agency employing the officer or employee, or other than pursuant to the exemptions under section 1906.

(4) AGENCY RESOURCES.—The Task Force may, with the consent of any Federal agency or department represented on the Task Force, utilize the information, services, staff and facilities of such agency or department on a reimbursable basis, to assist the Task Force in carrying out its duties under this section.

(5) MAILS.—The Task Force may use the United States mails in the same manner and under the same conditions as other Federal agencies.

(6) CONTRACTING.—The Task Force may, to such extent and in such amounts as are provided in appropriations Acts, enter into contracts with private firms, institutions, and individuals for the purpose of discharging its duties under this section.

(7) STAFF.—The Task Force may appoint and fix the compensation of such personnel as it deems advisable, in accordance with the provisions of title 5, United States Code, governing appointments to the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification of General Schedule pay rates.

(g) INDEPENDENT EVALUATION.—The Comptroller General of the United States shall be authorized to conduct an independent analysis of the findings and recommendations submitted by the Task Force to the Congress under this section.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section not to exceed \$6,000,000 for fiscal year 1993 and \$6,252,000 for fiscal year 1994. Funds appropriated under this subsection shall remain available until expended.

#### SEC. 544. DEFINITIONS.

For purposes of this subtitle:

(1) The term “multifamily housing” means a property consisting of more than 4 dwelling units.

(2) The term “qualified housing finance agency” means any State or local housing finance agency that—

(A) carries the designation of “top tier” or its equivalent, as evaluated by Standard and Poors or any other nationally recognized rating agency;

(B) receives a rating of “A” for its general obligation bonds from a nationally recognized rating agency; or

(C) otherwise demonstrates its capacity as a sound and experienced agency based on, but not limited to, its experience in financing multifamily housing, fund balances, administrative capabilities, investment policy, internal controls and financial management, portfolio quality, and State or local support.

(3) The term “reinsurance agreement” means a contractual obligation under which the Secretary, in exchange for appropriate compensation, agrees to assume a specified portion of the risk of loss that a lender or other party has previously assumed with respect to a mortgage on a multifamily housing property.

(4) The term “Secretary” means the Secretary of Housing and Urban Development.

## **TITLE VI—HOUSING FOR ELDERLY PERSONS AND PERSONS WITH DISABILITIES**

### **Subtitle A—Supportive Housing Programs**

#### **SEC. 601. FUNDING FOR SUPPORTIVE HOUSING FOR THE ELDERLY AND FOR PERSONS WITH DISABILITIES.**

Appropriation  
authorization.

(a) **AGGREGATE FUNDING.**—There are authorized to be appropriated for the purpose of providing assistance in accordance with section 202 of the Housing Act of 1959 and section 811 of the Cranston-Gonzalez National Affordable Housing Act, \$1,309,853,000 for fiscal year 1993 and \$1,364,866,826 for fiscal year 1994.

(b) **ALLOCATION.**—Of any amounts made available for assistance under the sections referred to in subsection (a), 70 percent of such amount shall be used for assistance in accordance with section 202 of the Housing Act of 1959 and 30 percent of such amount shall be used for assistance in accordance with section 811 of the Cranston-Gonzalez National Affordable Housing Act.

(c) **SUPPORTIVE HOUSING FOR THE ELDERLY.**—Section 202(1) of the Housing Act of 1959 (12 U.S.C. 1701q(1)) is amended—

(1) by striking “AUTHORIZATIONS.—” and inserting “ALLOCATION OF FUNDS.—”;

(2) in paragraph (1)—

(A) by striking the first sentence and inserting the following new sentence: “Of any amounts made available for assistance under this section, such sums as may be necessary shall be available for funding capital advances in accordance with subsection (c)(1).”; and

(B) in the second sentence, by striking “Amounts so appropriated” and inserting “Such amounts”;

(3) by striking paragraph (2) and inserting the following new paragraph:

“(2) PROJECT RENTAL ASSISTANCE.—Of any amounts made available for assistance under this section, such sums as may be necessary shall be available for funding project rental assistance in accordance with subsection (c)(2).”; and

(4) in paragraph (3), by striking “under this subtitle” and inserting “for assistance under this section”.

(d) SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES.—Section 811(l) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013(l)) is amended—

(1) by striking “AUTHORIZATIONS.—” and inserting “ALLOCATION OF FUNDS.—”;

(2) in paragraph (1)—

(A) by striking the first sentence and inserting the following new sentence: “Of any amounts made available for assistance under subsection (b), such sums as may be necessary shall be available for funding capital advances in accordance with subsection (c)(1).”; and

(B) in the second sentence, by striking “Amounts so appropriated” and inserting “Such amounts”;

(3) by striking paragraph (2) and inserting the following new paragraph:

“(2) PROJECT RENTAL ASSISTANCE.—Of any amounts made available for assistance under subsection (b), such sums as may be necessary shall be available for funding project rental assistance in accordance with subsection (c)(2).”; and

(4) by redesignating paragraphs (1) and (2) (as so amended) as paragraphs (2) and (3), respectively; and

(5) by inserting before paragraph (2) (as so redesignated) the following new paragraph:

“(1) ALLOCATION.—Of any amount made available for assistance under this section in any fiscal year, an amount shall be used for assistance under subsection (b) that is not less than the amount made available in appropriation Acts for such assistance in the preceding year, and the remainder shall be available for tenant-based assistance under subsection (n).”.

#### SEC. 602. SUPPORTIVE HOUSING FOR THE ELDERLY.

(a) TECHNICAL CORRECTIONS.—Section 202 of the Housing Act of 1959 (12 U.S.C. 1701q), as amended by section 801(a) of the Cranston-Gonzalez National Affordable Housing Act, is amended—

(1) in subsection (g)(1), by striking “and persons with disabilities”; and

(2) in subsection (i)(1)(A), by striking “persons with disabilities” and inserting “elderly persons”.

(b) REPEAL OF REQUIREMENT FOR STATE AND LOCAL CERTIFICATION OF SERVICES.—Section 202(e) of the Housing Act of 1959 (12 U.S.C. 1701q(e)), as amended by section 801(a) of the Cranston-Gonzalez National Affordable Housing Act, is amended—

(1) by striking paragraph (5); and

(2) by redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively.

(c) SELECTION CRITERIA.—Section 202(f)(2) of the Housing Act of 1959 (12 U.S.C. 1701q(f)(2)) is amended by adding at the end

“, taking into consideration the availability of public housing for the elderly and vacancy rates in such facilities”.

(d) ELDER COTTAGE HOUSING.—

(1) IMPLEMENTATION.—Section 806(b) of the Cranston-Gonzalez National Affordable Housing Act (12 U.S.C. 1701q note) is amended to read as follows:

“(b) DEMONSTRATION PROGRAM.—

“(1) IN GENERAL.—The Secretary of Housing and Urban Development shall carry out a program to determine the feasibility of including, as an eligible development cost under section 202 of the Housing Act of 1959, the cost of purchasing and installing elder cottage housing opportunity units that are small, freestanding, barrier-free, energy efficient, removable, and designed to be installed adjacent to existing 1- to 4-family dwellings. In conducting the demonstration, the Secretary shall determine whether the durability of such units is appropriate for making such units generally eligible for assistance under the programs under such sections.

“(2) ALLOCATION.—Notwithstanding any other law, the Secretary shall reserve from any amounts available for capital advances and project rental assistance under section 202 of the Housing Act of 1959, amounts sufficient in each of fiscal years 1993 and 1994 to provide not less than 100 units under the demonstration under this subsection in connection with each such section. Any amounts reserved under this paragraph shall be available only for carrying out the demonstration under this subsection and, for purposes of the demonstration, the cost of purchasing and installing an elder cottage housing opportunity unit shall be considered an eligible development cost under sections 202 of the Housing Act of 1959.

“(3) REPORT.—Not later than January 1, 1994, the Secretary shall submit a report to the Congress on the results of the demonstration under this subsection, which shall be based on actual experience in implementing this subsection.

“(4) IMPLEMENTATION.—The Secretary shall issue regulations to carry out the demonstration under this subsection not later than the expiration of the 6-month period beginning on the date of the enactment of the Housing and Community Development Act of 1992.”.

(e) ACCESS TO RESIDUAL RECEIPTS.—Section 202(j) of the Housing Act of 1959 (12 U.S.C. 1701q(j)) is amended by adding at the end the following new paragraph:

“(6) ACCESS TO RESIDUAL RECEIPTS.—The Secretary shall authorize the owner of a project assisted under this section to use any residual receipts held for the project in excess of \$500 per unit (or in excess of such other amount prescribed by the Secretary based on the needs of the project) for activities to retrofit and renovate the project described under section 802(d)(3) of the Cranston-Gonzalez National Affordable Housing Act, to provide a service coordinator for the project as described in section 802(d)(4) of such Act, or to provide supportive services (as such term is defined in section 802(k) of such Act) to residents of the project. Any owner that uses residual receipts under this paragraph shall submit to the Secretary a report, not less than annually, describing the uses of the residual receipts. In determining the amount of project rental assistance to be provided to a project under subsection (c)(2) of this section,

Regulations.

the Secretary may take into consideration the residual receipts held for the project only if, and to the extent that, excess residual receipts are not used under this paragraph.”

(f) **WAIVER OF OWNER DEPOSIT.**—Section 202(j)(3)(B) of the Housing Act of 1959 (12 U.S.C. 1701q(j)(3)(B)) is amended by adding at the end the following new sentence: “The Secretary shall reduce or waive the requirement of the owner deposit under paragraph (1) in the case of a nonprofit applicant that is not affiliated with a national sponsor, as determined by the Secretary.”

(g) **NONMETROPOLITAN ALLOCATION.**—Section 202(l)(4) of the Housing Act of 1959 (12 U.S.C. 1701q(l)(3)) is amended by striking “20 percent” and inserting “15 percent”.

#### **SEC. 603. SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES.**

Section 811(k)(6) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013(k)(6)) is amended—

- (1) by striking “incorporated private”;
- (2) by redesignating subparagraphs (A), (B), and (C), as subparagraphs (B), (C), and (D), respectively; and
- (3) by inserting after “foundation—” the following new subparagraph:

“(A) that has received, or has temporary clearance to receive, tax-exempt status under section 501(c)(3) of the Internal Revenue Code of 1986;”.

#### **SEC. 604. REVISED CONGREGATE HOUSING SERVICES PROGRAM.**

(a) **AUTHORIZATION OF APPROPRIATIONS.**—Section 802(n)(1) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8011(n)(1)) is amended by striking the matter preceding subparagraph (A) and inserting the following:

“(1) **AUTHORIZATION AND USE.**—There are authorized to be appropriated to carry out this section \$21,000,000 for fiscal year 1993, and \$21,882,000 for fiscal year 1994, of which not more than—”.

Appropriation  
authorization.

(b) **SUPPLEMENTAL CONTRIBUTIONS.**—Section 802(i)(1)(B)(i) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8011(i)(1)(B)(i)) is amended by striking “3-year” each place it appears and inserting “6-year”.

(c) **REGULATIONS.**—

(1) **INTERIM REGULATIONS.**—Not later than the expiration of the 30-day period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development and the Secretary of Agriculture shall submit to the Congress a copy of proposed interim regulations implementing section 802 of the Cranston-Gonzalez National Affordable Housing Act with respect to eligible federally assisted housing (as such term is defined in section 802(k) of such Act) administered by each such Secretary. Not later than the expiration of the 45-day period beginning on the date of the enactment of this Act, but not before the expiration of the 15-day period beginning upon the submission of the proposed interim regulations to the Congress, each such Secretary shall publish interim regulations implementing such section 802, which shall take effect upon publication.

(2) **FINAL REGULATIONS.**—Not later than the expiration of the 90-day period beginning upon the publication of interim regulations under paragraph (1), each such Secretary shall issue final regulations implementing section 802 of the Cran-

42 USC 8011  
note.

ston-Gonzalez National Affordable Housing Act after notice and opportunity for public comment regarding the interim regulations, pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section). The duration of the period for public comment under such section 553 shall be not less than 60 days, and the final regulations shall take effect upon issuance.

(3) FAILURE UNDER 1990 ACT.—This subsection may not be construed to authorize any failure to comply with the requirements of section 802(m) of the Cranston-Gonzalez National Affordable Housing Act.

#### SEC. 605. HOPE FOR ELDERLY INDEPENDENCE.

(a) SECTION 8 ASSISTANCE.—Section 803(j) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8012(j)) is amended to read as follows:

“(j) SECTION 8 FUNDING.—The budget authority available under section 5(c) of the United States Housing Act of 1937 for assistance under sections 8(b) and 8(o) of such Act is authorized to be increased by \$38,288,000 on or after October 1, 1992, and by \$39,896,096 on or after October 1, 1993. The amounts made available under this subsection shall be used only in connection with the demonstration under this section.

(b) SUPPORTIVE SERVICES AUTHORIZATION.—Section 803(k) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8012(k)) is amended to read as follows:

“(k) FUNDING FOR SERVICES.—There are authorized to be appropriated for the Secretary to carry out the responsibilities for supportive services under the demonstrations under this section \$10,000,000 to become available in fiscal year 1993, and \$10,420,000 to become available in fiscal year 1994. Any such amounts appropriated under this subsection shall remain available until expended.”.

(c) DEMONSTRATION PERIOD.—Section 803 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8012) is amended—

(1) in subsection (a), by striking “beginning on the date of the enactment of this Act” and inserting “determined by the Secretary”; and

(2) by striking paragraph (1) of subsection (g) and inserting the following new paragraph:

“(1) The term ‘demonstration period’ means the 5-year period referred to in subsection (a).”.

#### SEC. 606. HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS.

(a) AMENDMENT OF CRANSTON-GONZALEZ NATIONAL HOUSING ACT.—Whenever in this section an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Cranston-Gonzalez National Affordable Housing Act.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 863 (42 U.S.C. 12912) is amended to read as follows:

#### “SEC. 863. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated to carry out this subtitle \$150,000,000 for fiscal year 1993 and \$156,300,000 for fiscal year 1994.”.

Appropriation  
authorization.

(c) DEFINITIONS.—Section 853 (42 U.S.C. 12902) is amended—

(1) in paragraph (2), by striking “sponsor receiving assistance from a grantee” and inserting “organization eligible to receive assistance under this subtitle”;

(2) in paragraph (5), by striking “metropolitan area” and inserting “metropolitan statistical area”; and

(3) by adding at the end the following new paragraphs:

“(11) The term ‘city’ has the meaning given the term in section 102(a) of the Housing and Community Development Act of 1974.

“(12) The term ‘eligible person’ means a person with acquired immunodeficiency syndrome or a related disease and the family of such person.

“(13) The term ‘nonprofit organization’ means any nonprofit organization (including a State or locally chartered, nonprofit organization) that—

“(A) is organized under State or local laws;

“(B) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual;

“(C) complies with standards of financial accountability acceptable to the Secretary; and

“(D) has among its purposes significant activities related to providing services or housing to persons with acquired immunodeficiency syndrome or related diseases.

“(14) The term ‘project sponsor’ means a nonprofit organization or a housing agency of a State or unit of general local government that contracts with a grantee to receive assistance under this subtitle.”

(d) GRANT ELIGIBILITY AND ALLOCATION.—Section 854 (42 U.S.C. 12903) is amended—

(1) in subsection (a), by striking “and units of general local government” and inserting “, units of general local government, and nonprofit organizations”;

(2) by striking subsection (b) and inserting the following new subsection:

“(b) IMPLEMENTATION OF ELIGIBLE ACTIVITIES.—A grantee shall carry out eligible activities under section 855 through project sponsors. Any grantee that is a State that enters into a contract with a nonprofit organization to carry out eligible activities in a locality shall obtain the approval of the unit of general local government for the locality before entering into the contract.”;

(3) by striking paragraph (1) of subsection (c) and inserting the following new paragraph:

“(1) FORMULA ALLOCATION.—The Secretary shall allocate 90 percent of the amounts approved in appropriation Acts under section 863 among States and cities whose most recent comprehensive housing affordability strategy (or abbreviated strategy) has been approved by the Secretary under section 105 of this Act. Such amounts shall be allocated as follows:

“(A) 75 percent among—

“(i) cities that are the most populous unit of general local government in a metropolitan statistical area having a population greater than 500,000 and more than 1,500 cases of acquired immunodeficiency syndrome; and

"(ii) States with more than 1,500 cases of acquired immunodeficiency syndrome outside of metropolitan statistical areas described in clause (i); and

"(B) 25 percent among cities that (i) are the most populous unit of general local government in a metropolitan statistical area having a population greater than 500,000 and more than 1,500 cases of acquired immunodeficiency syndrome, and (ii) have a higher than average per capita incidence of acquired immunodeficiency syndrome.

A single city may receive assistance allocated under subparagraph (A) and subparagraph (B). For purposes of allocating amounts under this paragraph for any fiscal year, the number of cases of acquired immunodeficiency syndrome shall be the number of such cases reported to and confirmed by the Director of the Centers for Disease Control of the Public Health Service as of March 31 of the fiscal year immediately preceding the fiscal year for which the amounts are appropriated and to be allocated.";

(4) in subsection (c)(3)—

(A) by striking the paragraph heading and inserting "NONFORMULA ALLOCATION.—"; and

(B) by striking subparagraph (A) and inserting the following new subparagraph:

"(A) IN GENERAL.—The Secretary shall allocate 10 percent of the amounts appropriated under section 863 among—

"(i) States and units of general local government that do not qualify for allocation of amounts under paragraph (1); and

"(ii) States, units of general local government, and nonprofit organizations, to fund special projects of national significance.";

(5) in the first sentence of subsection (d), by striking "approvable applications submitted by eligible applicants" and inserting "applications submitted by applicants and approved by the Secretary";

(6) in subsection (e), by striking "requirements of subsection (b)" and inserting "other requirements of this section"; and

(7) by adding at the end the following new subsection:

"(f) ADDITIONAL REQUIREMENT FOR CITY FORMULA GRANTEES.—

In addition to the other requirements of this section, to be eligible for a grant pursuant to subsection (c)(1), a city shall provide such assurances as the Secretary may require that any grant amounts received will be allocated among eligible activities in a manner that addresses the needs within the metropolitan statistical area in which the city is located, including areas not within the jurisdiction of the city. Any such city shall coordinate with other units of general local government located within the metropolitan statistical area to provide such assurances and comply with the assurances."

(e) LIMITATION ON SPENDING FOR OTHER ACTIVITIES.—Section 855(6) (42 U.S.C. 12904(6)) is amended by inserting before the period at the end the following: ", except that activities developed under this paragraph may be assisted only with amounts provided under section 854(c)(3)".



(f) FEES AND LIMITATION ON USE OF GRANT AMOUNTS FOR ADMINISTRATIVE EXPENSES.—Section 856 (42 U.S.C. 12905) is amended—

(1) by striking subsection (d) and inserting the following new subsection:

“(d) PROHIBITION OF FEES.—The recipient shall agree that no fee will be charged to any eligible person for any housing or services provided with amounts from a grant under this subtitle.”; and

(2) by adding at the end the following new subsection:

“(g) ADMINISTRATIVE EXPENSES.—

“(1) GRANTEES.—Notwithstanding any other provision of this subtitle, each grantee may use not more than 3 percent of the grant amount for administrative costs relating to administering grant amounts and allocating such amounts to project sponsors.

“(2) PROJECT SPONSORS.—Notwithstanding any other provision of this subtitle, each project sponsor receiving amounts from grants made under this title may use not more than 7 percent of the amounts received for administrative costs relating to carrying out eligible activities under section 855, including the costs of staff necessary to carry out eligible activities.”.

(g) SHORT-TERM SUPPORTED HOUSING AND SERVICES.—Section 858 (42 U.S.C. 12907) is amended—

(1) in subsection (a)—

(A) in paragraph (3), by inserting before the period at the end the following: “(except that health services under this paragraph may only be provided to individuals with acquired immunodeficiency syndrome or related diseases), and providing technical assistance to eligible persons to provide assistance in gaining access to benefits and services for homeless individuals provided by the Federal Government and State and local governments”;

(B) by striking paragraphs (4) and (5); and

(C) by adding at the end the following new paragraphs:

“(4) OPERATION.—Providing for the operation of short-term supported housing provided under this section, including the costs of security, operation insurance, utilities, furnishings, equipment, supplies, and other incidental costs.

“(5) ADMINISTRATION.—Providing staff to carry out the program under this section (subject to the provisions of section 856(g)).”; and

(2) in subsection (b)—

(A) in paragraph (2)—

(i) by striking subparagraph (B);

(ii) in subparagraph (C), by striking “limitations under subparagraphs (A) and (B)” and inserting “limitation under subparagraph (A)”; and

(iii) by redesignating subparagraph (C) (as so amended) as subparagraph (B); and

(B) in paragraph (3), by adding at the end the following new subparagraph:

“(C) WAIVER.—Notwithstanding subparagraphs (A) and (B), the Secretary may waive the applicability of the requirements under such subparagraphs with respect to any individual for which the project sponsor has made

a good faith effort to acquire permanent housing (in accordance with paragraph (4)) and has been unable to do so.”.

(h) RENTAL ASSISTANCE.—

(1) IN GENERAL.—Section 859 (42 U.S.C. 12908) is amended—

(A) by striking the section heading and inserting the following new section heading:

“SEC. 859. RENTAL ASSISTANCE.”;

(B) in the first sentence of subsection (a)(1), by striking “short-term”; and

(C) by adding at the end the following new subsection:

“(c) ADMINISTRATIVE COSTS.—A project sponsor providing rental assistance under this section may use amounts from any grant received under this section for administrative expenses involved in providing such assistance, subject to the provisions of 856(g)(2).”.

(2) CONFORMING AMENDMENT.—Section 855(3) (42 U.S.C. 12904(3)) is amended by striking “short-term”.

(i) COMMUNITY RESIDENCES AND SERVICES.—Section 861(c) (42 U.S.C. 12910(c)) is amended—

(1) in paragraph (1)(C), by inserting before the period at the end the following: “, and expenses relating to community outreach and educational activities regarding acquired immunodeficiency syndrome and related diseases provided for individuals residing in proximity of eligible persons assisted under this subtitle”; and

(2) by striking paragraph (3) and inserting the following new paragraph:

“(3) ADMINISTRATIVE EXPENSES.—For administrative expenses related to the planning and carrying out activities under this section (subject to the provisions of section 856(g)).”.

(j) ELIGIBILITY OF FAMILIES.—

(1) Section 852 (42 U.S.C. 12901) is amended by inserting “and families of such persons” before the period at the end.

(2) Section 854(c)(3) (42 U.S.C. 12903(c)(3)) is amended by striking “persons with acquired immunodeficiency syndrome” and inserting “eligible persons” each place it appears.

(3) Section 855 (42 U.S.C. 12904) is amended—

(A) in the matter preceding paragraph (1), by striking “such persons with acquired immunodeficiency syndrome” and inserting “eligible persons”; and

(B) in paragraph (5), by striking “with acquired immunodeficiency syndrome”.

(4) Section 856(c) (42 U.S.C. 12905(c)) is amended by striking “such individuals” and inserting “such eligible persons”.

(5) Section 858(a)(3) (42 U.S.C. 12907(a)(3)) is amended by striking “individuals” and inserting “eligible persons”.

(6) Section 859(b)(1) (42 U.S.C. 12908(b)(1)) is amended by striking “individuals” and inserting “eligible persons”.

(7) Sections 859(b)(2) and 860(b)(2) (42 U.S.C. 12908(b), 12909(b)(2)) are amended by inserting “with acquired immunodeficiency syndrome or related diseases” after “any individual” each place it appears.

(8) Section 861(a) (42 U.S.C. 12910(a)) is amended by striking “persons with acquired immunodeficiency syndrome or related diseases” and inserting “eligible persons”.

(9) Section 861(b)(1)(A)(iv) (42 U.S.C. 12910(b)(1)(A)(iv)) is amended by striking “such individuals” and inserting “such eligible persons”.

(10) Section 861(d)(1) (42 U.S.C. 12910(d)(1)) is amended—

(A) in subparagraph (A), by striking “individuals” and inserting “eligible persons”; and

(B) in subparagraph (D), by inserting “with acquired immunodeficiency syndrome or related diseases” after “any individual”.

(11) Subtitle D of title VIII of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12901 et seq.) is amended by striking “individuals with acquired immunodeficiency syndrome or related diseases” each place it appears in the following provisions and inserting “eligible persons”:

(A) Section 856(c).

42 USC 12905.

(B) Section 857.

42 USC 12906.

(C) Section 858—

42 USC 12907.

(i) in subsection (a), in the matter preceding paragraph (1); and

(ii) in subsection (b)(1)(A);

(D) Section 859(a)(1).

42 USC 12908.

(E) Section 861—

42 USC 12910.

(i) in subsection (b); and

(ii) in subsection (d).

(k) REGULATIONS.—

42 USC 12901  
note.

(1) INTERIM REGULATIONS.—Not later than the expiration of the 30-day period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall submit to the Congress a copy of proposed interim regulations implementing subtitle D of title VIII of the Cranston-Gonzalez National Affordable Housing Act (as amended by this section). Not later than the expiration of the 45-day period beginning on the date of the enactment of this Act, but not before the expiration of the 15-day period beginning upon the submission of the proposed interim regulations to the Congress, the Secretary shall publish interim regulations implementing such subtitle (as amended), which shall take effect upon publication.

(2) FINAL REGULATIONS.—Not later than the expiration of the 90-day period beginning upon the publication of interim regulations under paragraph (1), the Secretary shall issue final regulations implementing subtitle D of title VIII of the Cranston-Gonzalez National Affordable Housing Act (as amended by this section) after notice and opportunity for public comment regarding the interim regulations, pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section). The duration of the period for public comment under such section 553 shall be not less than 60 days, and the final regulations shall take effect upon issuance.

## Subtitle B—Authority for Public Housing Agencies To Provide Designated Public Housing and Assistance for Disabled Families

### SEC. 621. DEFINITIONS.

Paragraph 3 of section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(3)) is amended to read as follows:

#### “(3) PERSONS AND FAMILIES.—

“(A) SINGLE PERSONS.—The term ‘families’ includes families consisting of a single person in the case of (i) an elderly person, (ii) a disabled person, (iii) a displaced person, (iv) the remaining member of a tenant family, and (v) any other single persons. In no event may any single person under clause (v) of the first sentence be provided a housing unit assisted under this Act of 2 or more bedrooms. In determining priority for admission to housing under this Act, the Secretary shall give preference to single persons who are elderly, disabled, or displaced persons before single persons who are eligible under clause (v) of the first sentence.

“(B) FAMILIES.—The term ‘families’ means families with children, in the cases of elderly families, near-elderly families, and disabled families, means families whose heads (or their spouses), or whose sole members, are elderly, near-elderly, or persons with disabilities, respectively. The term includes, in the cases of elderly families, near-elderly families, and disabled families, 2 or more elderly persons, near-elderly persons, or persons with disabilities living together, and 1 or more such persons living with 1 or more persons determined under the regulations of the Secretary to be essential to their care or well-being.

“(C) ABSENCE OF CHILDREN.—The temporary absence of a child from the home due to placement in foster care shall not be considered in determining family composition and family size.

“(D) ELDERLY PERSON.—The term ‘elderly person’ means a person who is at least 62 years of age.

“(E) PERSON WITH DISABILITIES.—The term ‘person with disabilities’ means a person who—

“(i) has a disability as defined in section 223 of the Social Security Act,

“(ii) is determined, pursuant to regulations issued by the Secretary, to have a physical, mental, or emotional impairment which (I) is expected to be of long-continued and indefinite duration, (II) substantially impedes his or her ability to live independently, and (III) is of such a nature that such ability could be improved by more suitable housing conditions, or

“(iii) has a developmental disability as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act.

Such term shall not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions aris-

ing from the etiologic agent for acquired immunodeficiency syndrome.

“(F) **DISPLACED PERSON.**—The term ‘displaced person’ means a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.

“(G) **NEAR-ELDERLY PERSON.**—The term ‘near-elderly person’ means a person who is at least 50 years of age but below the age of 62.”.

#### SEC. 622. AUTHORITY.

(a) **IN GENERAL.**—Section 7 of the United States Housing Act of 1937 (42 U.S.C. 1437e) is amended to read as follows:

##### “DESIGNATED HOUSING

“SEC. 7. (a) **AUTHORITY TO PROVIDE DESIGNATED HOUSING.**—

“(1) **IN GENERAL.**—Notwithstanding any other provision of law, a public housing agency whose allocation plan under subsection (f) (and any biannual update) has been approved by the Secretary may, to the extent provided in the allocation plan, provide public housing projects (or portions of projects) designated for occupancy by (A) only elderly families, (B) only disabled families (subject to the provisions of subsection (e)), or (C) elderly and disabled families.

“(2) **PRIORITY FOR OCCUPANCY.**—In determining priority for admission to public housing projects (or portions of projects) that are designated for occupancy as provided in paragraph (1), the public housing agency may make units in such projects (or portions) available only to the types of families for whom the project is designated. Among such types of families, preference for occupancy in such projects (or portions) shall be given according to the preferences for occupancy under section 6(c)(4)(A).

“(3) **ELIGIBILITY OF NEAR-ELDERLY FAMILIES.**—If a public housing agency determines (in accordance with regulations established by the Secretary) that there are insufficient numbers of elderly families to fill all the units in a project (or portion of a project) designated under paragraph (1) for occupancy by only elderly families, the agency may (pursuant to the approved allocation plan under subsection (f) for the agency) provide that near-elderly families who qualify for preferences for occupancy under section 6(c)(4)(A) may occupy dwelling units in the project (or portion).

“(4) **VACANCY.**—Notwithstanding the authority under paragraphs (1) and (2) to designate public housing projects (or portions of projects) for occupancy by only certain types of families, a public housing agency shall make any dwelling unit that is ready for occupancy in such a project (or portion of a project) that has been vacant for more than 60 consecutive days generally available for occupancy (subject to the requirements of this title) without regard to such designation.

“(b) **AVAILABILITY OF HOUSING.**—

“(1) **TENANT CHOICE.**—The decision of any disabled family not to occupy or accept occupancy in an appropriate type of project or assistance made available to the family under this title shall not adversely affect the family with respect to a

public housing agency making available occupancy in other appropriate projects in public housing or assistance under this title.

"(2) **DISCRIMINATORY SELECTION.**—Paragraph (1) shall not apply to any family who decides not to occupy or accept an appropriate dwelling unit in public housing or to accept assistance under this Act on the basis of the race, color, religion, sex, disability, familial status, or national origin of occupants of housing or the surrounding area.

"(3) **APPROPRIATENESS OF DWELLING UNITS.**—This section may not be construed to require a public housing agency to offer occupancy in any dwelling unit assisted under this Act to any family who is not of appropriate family size for the dwelling unit.

"(c) **PROHIBITION OF EVICTIONS.**—Any tenant who is lawfully residing in a dwelling unit in the project may not be evicted or otherwise required to vacate such unit because of the designation of the project (or portion of a project) or because of any action taken by the Secretary of Housing and Urban Development or any public housing agency pursuant to this section.

"(d) **ACCOMMODATION OF HOUSING AND SERVICE NEEDS.**—In designing, developing, otherwise acquiring and operating, designating, and providing housing and assistance under this title, each public housing agency shall meet, to the extent practicable, the housing and service needs of eligible families applying for assistance under this title, as provided in any allocation plan of the agency approved under subsection (f). To meet such needs, public housing agencies may, wherever practicable and in accordance with any allocation plan of the agency—

"(1) provide housing in which supportive services are provided, facilitated, or coordinated, mixed housing, shared housing, family housing, group homes, congregate housing, and other housing as the public housing agency considers appropriate;

"(2) carry out major reconstruction of obsolete public housing projects and reconfiguration of public housing dwelling units; and

"(3) provide tenant-based assistance under section 811(b)(1).

"(e) **APPLICATION FOR DESIGNATED HOUSING FOR DISABLED FAMILIES.**—

"(1) **REQUIREMENT.**—A project (or portion of a project) may be designated under subsection (a)(1) for occupancy by only disabled families only if the public housing agency administering the project complies with the other requirements of this section and the Secretary approves an application under this subsection for such designation. The Secretary shall establish the form and procedures for submission and approval of applications under this subsection.

"(2) **CONTENTS.**—An application under this subsection shall contain—

"(i) a description of the projects (or portions of projects) to be designated (which may include group homes, independent living facilities, units in multifamily housing developments, condominium housing, cooperative housing, and scattered site housing);

"(ii) a supportive service plan—

"(I) describing the needs of persons with disabilities that the housing is expected to serve;

"(II) providing for delivery of supportive services appropriate to meet the individual needs of persons with disabilities occupying the housing;

"(III) describing the experience of the applicant (or service providers) in providing such services;

"(IV) describing the manner in which such services will be provided to such persons; and

"(V) identifying any State, local, other Federal, or other funds available for providing such services; and

"(iii) any other information or certification that the Secretary considers appropriate.

"(3) APPROVAL.—The Secretary may approve an application under this subsection only if the Secretary determines that—

"(i) the persons with disabilities occupying the housing will receive supportive services based on their individual needs;

"(ii) the applicant (or service providers) have sufficient experience in providing supportive services;

"(iii) residential supervision will be provided in the housing sufficient to facilitate the provision of supportive services; and

"(iv) the supportive services are adequately designed to meet the special needs of the tenants.

"(4) SUPPORTIVE SERVICES.—For purposes of this subsection, the term 'supportive services' means services designed to meet the special needs of tenants, and may include meal services, health-related services, mental health services, services for nonmedical counseling, meals, transportation, personal care, bathing, toileting, housekeeping, chore assistance, safety, group and socialization activities, assistance with medications (in accordance with any applicable State laws), case management, personal emergency response, and other appropriate services.

"(f) ALLOCATION PLANS.—

"(1) REQUIREMENT.—A public housing agency may not designate a project (or portion of a project) for occupancy under subsection (a)(1) unless the agency submits an allocation plan under this subsection and the plan is approved under paragraph (4) of this subsection.

"(2) CONTENTS.—An allocation plan submitted under this subsection by a public housing agency shall include—

"(A) a description of the projects (or portions of projects) to be designated and the types of tenants occupying such projects (or portions);

"(B) a description of the estimated pool of applicants for such housing, based on the waiting lists for such housing, and any information collected in the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act for the jurisdiction within which the area served by the public housing agency is located;

"(C) a statement identifying the projects or portions of projects (including the buildings or floors) to be designated for occupancy under subsection (a)(1) for only cer-

tain types of families, the types of families who will be eligible for occupancy in such projects (or portions), and the reasons for the designation;

"(D) documentation of the number of units in the projects (or portions) identified under subparagraph (C) which became vacant and available for occupancy during the preceding year;

"(E) an estimate of the number of units in the projects (or portions) identified under subparagraph (C) that will become vacant and available for occupancy during the ensuing 2-year period;

"(F) a description of the occupancy policies and procedures, including procedures for maintaining waiting lists for eligible applicants who are elderly families or disabled families for occupancy in units in projects administered by the agency sufficient to document the number and duration of instances in which housing assistance for eligible applicants will be denied or delayed by the agency because of a lack of appropriately designated units;

"(G) a plan for securing sufficient additional resources that the agency owns, controls, or has received preliminary notification that it will obtain, or for which the agency plans to apply, that will be sufficient to provide assistance to not less than the number of nonelderly disabled families that would have been housed if occupancy in such units were not restricted pursuant to this section; and

"(H) any comments of agencies, organizations, or persons with whom the public housing agency consults under paragraph (3).

"(3) DEVELOPMENT.—In preparing the initial allocation plan, or updates of a plan under paragraph (5), for submission under this subsection, a public housing agency shall consult with the State or unit of general local government in whose jurisdiction the area served by the public housing agency is located, public and private service providers, advocates for the interest of eligible elderly families, disabled families, and families with children, and other interested parties.

"(4) APPROVAL.—

"(A) CRITERIA.—The Secretary shall approve an allocation plan, or an updated plan, submitted under this subsection if the Secretary determines that, based on the plan and comments submitted pursuant to paragraph (2)(H)—

"(i) the information contained in the plan is complete and accurate and the projections are reasonable;

"(ii) implementation of the plan will not result in excessive vacancy rates in projects (or portions of projects) identified in paragraph (2)(C); and

"(iii) the plan under paragraph (2)(G) can reasonably be achieved.

"(B) NOTIFICATION.—

"(i) IN GENERAL.—The Secretary shall notify each public housing agency submitting an allocation plan under this subsection in writing of approval or disapproval of the plan.

"(ii) TIMING.—A plan shall be considered to be approved if the Secretary does not notify the public housing agency of approval or disapproval of the initial



or revised plan within (I) 90 days after the submission of any plan that contains comments pursuant to paragraph (2)(H), or (II) 45 days for any other plan.

“(iii) RESUBMISSION.—If the Secretary disapproves the plan, the Secretary shall, for a period of not less than 45 days following the date of disapproval, permit amendments to, or resubmission of, the plan.

“(C) RULE OF CONSTRUCTION.—The approval of an allocation plan or updated plan under this subsection may not be construed to constitute approval of any request for assistance for major reconstruction of obsolete projects, assistance for development or acquisition of public housing, or assistance under section 811(b)(1) of the Cranston-Gonzalez National Affordable Housing Act, that are contained in the plan pursuant to subparagraph (H).

“(5) BIENNIAL UPDATE.—

“(A) IN GENERAL.—Each public housing agency that owns or operates a project (or portion of a project) that is designated for occupancy under subsection (a)(1) shall update the plan of the agency under this subsection not less than once every 2 years, as the Secretary shall provide. The Secretary shall notify each public housing agency submitting an updated plan under this paragraph of approval or disapproval of the updated plan as required under paragraph (4)(B), and the provisions of such paragraph shall apply to updated plans under this paragraph.

“(B) CONTENTS.—The updated plan shall include—

“(i) a review of the data and projections contained in the allocation plan and the most recent update submitted under this subsection;

“(ii) an assessment of the accuracy of the projections contained in such plan and update;

“(iii) a statement of the number of times a vacancy was filled pursuant to subsection (a)(4);

“(iv) a statement of the number of times an application for housing assistance by an eligible applicant was denied or delayed because of a lack of appropriately designated units; and

“(v) a plan for adjusting the allocation, if necessary, in accordance with the needs identified pursuant to this subparagraph.

“(C) STANDARDS FOR APPROVAL.—The Secretary shall establish standards for preparation, submission, and approval of updated plans.

“(g) PROHIBITION OF COERCION.—No elderly or disabled family residing in any public housing project may be required to accept services.”.

(b) OCCUPANCY PREFERENCES.—The matter preceding clause (i) in section 6(c)(4)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437d(c)(4)(A)) is amended by striking “specifically designated for elderly families” and inserting “designated for occupancy pursuant to section 7(a)”.

(c) DEFINITIONS.—Section 3(c) of the United States Housing Act of 1937 (42 U.S.C. 1437a(c)) is amended by inserting after “project.” the following new paragraphs:

“(4) The term ‘congregate housing’ means low-rent housing with which there is connected a central dining facility where whole-

some and economical meals can be served to occupants. Expenditures incurred by a public housing agency in the operation of a central dining facility in connection with congregate housing (other than the cost of providing food and service) shall be considered a cost of operation of the project.

“(5) The terms ‘group home’ and ‘independent living facility’ have the meanings given such terms in section 811(k) of the Cranston-Gonzalez National Affordable Housing Act.

**SEC. 823. TENANT-BASED ASSISTANCE FOR PERSONS WITH DISABILITIES.**

(a) **IN GENERAL.**—Section 811 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013) is amended—

(1) by amending the section heading to read as follows:

“**SEC. 811. SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES.**”;

(2) in subsection (b)—

(A) in the matter following paragraph (2)—

(i) by moving such matter 2 ems to the right;

and

(ii) by striking “Such assistance” and inserting “assistance under this paragraph”;

(B) by striking the subsection heading and all that follows through the end of paragraph (2) and inserting the following:

“(b) **AUTHORITY TO PROVIDE ASSISTANCE.**—The Secretary is authorized—

“(1) to provide tenant-based rental assistance to eligible persons with disabilities, in accordance with subsection (d)(4); and

“(2) to provide assistance to private, nonprofit organizations to expand the supply of supportive housing for persons with disabilities, which shall be provided as—

“(A) capital advances in accordance with subsection (d)(1), and

“(B) contracts for project rental assistance in accordance with subsection (d)(2);”;

(3) in subsection (d)—

(A) in paragraphs (1) and (3), by striking “this section” and inserting “subsection (b)(2)”; and

(B) by adding at the end the following new paragraph—

“(4) **TENANT-BASED RENTAL ASSISTANCE.**—Tenant-based rental assistance provided under subsection (b)(1) may be provided only through a public housing agency that has submitted, and had approved, an allocation plan under section 7(f) of the United States Housing Act of 1937, and a public housing agency shall be eligible to apply under this section only for the purposes of providing such assistance. Such assistance shall be made available to eligible persons with disabilities and administered under the same rules that govern rental assistance made available under section 8 of the United States Housing Act of 1937. In determining the amount of assistance provided under subsection (b)(1) for a public housing agency, the Secretary shall consider the needs of the agency as described in the allocation plan.”;

(4) in subsection (e)(1), by striking “this section” and inserting “subsection (b)(2)”;

(5) in subsection (f), in the first and second sentences, by striking "this section" and inserting "subsection (b)(2)"; and

(6) in subsection (g), by striking "this section" and inserting "subsection (b)(2)".

(b) **SECTION 8 ASSISTANCE.**—Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), is amended by inserting after subsection (h) the following new subsection:

"(i) The Secretary may not consider the receipt by a public housing agency of assistance under section 811(b)(1) of the Cranston-Gonzalez National Affordable Housing Act, or the amount received, in approving assistance for the agency under this section or determining the amount of such assistance to be provided."

**SEC. 624. DEVELOPMENT AND RECONSTRUCTION OF HOUSING FOR DISABLED FAMILIES.**

(a) **SET-ASIDE OF MAJOR RECONSTRUCTION FUNDS FOR RECONFIGURATION OF PROJECTS.**—Section 5(j)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437c(j)(2)), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subparagraph:

"(G)(i) In fiscal years 1993 and 1994, the Secretary shall commit for use under clause (ii) not less than 5 percent of any amounts reserved under subparagraph (A) for each such fiscal year.

"(ii) The amounts referred to in clause (i) shall be available to public housing agencies only for use for projects (or portions of projects) designated for occupancy under section 7(a)(1) and (e) by disabled families.

"(iii) In allocating amounts reserved under this subparagraph among public housing agencies, the Secretary shall consider the need for any such amounts as identified in the allocation plans submitted by agencies under section 7(f)."

(b) **SET-ASIDE OF NEW CONSTRUCTION FUNDS FOR HOUSING DESIGNED FOR DISABLED FAMILIES AND SINGLE PERSONS.**—Section 5(j) of the United States Housing Act of 1937 (42 U.S.C. 1437c(j)) is amended by adding at the end the following new paragraph:

"(3)(A) In fiscal years 1993 and 1994, the Secretary shall reserve for use under subparagraph (B) not less than 5 percent of any amounts approved in appropriation Acts for each such fiscal year for public housing grants under subsection (a)(2) that are not designated under such Acts for use under paragraph (2) of this subsection for the substantial redesign, reconstruction, or redevelopment of existing public housing projects, buildings, or units.

"(B) Any amount reserved under subparagraph (A) shall be available only to public housing agencies that have designated projects (or portions of projects) for occupancy under section 7(a)(1) for use only for the costs of development or acquisition of public housing projects or buildings designated for occupancy under section 7(a)(1) and (e) by disabled families. A building so assisted may not contain more than 25 dwelling units, except that the Secretary may (in the discretion of the Secretary) waive such limitation for a building.

"(C) The Secretary shall carry out a competition for budget authority reserved under subparagraph (A) among eligible public housing agencies and shall allocate such budget authority to public housing agencies pursuant to the competition, based on (i) the need of the agency for such assistance (taking into consideration the allocation plans submitted under section 7(f) by agencies), and

(ii) the extent to which the public housing projects and buildings to be developed or assisted meet the requirements of section 7(e)."

(c) REQUIREMENT FOR USE OF NEW CONSTRUCTION FUNDS FOR PROJECTS DESIGNATED FOR ELDERLY FAMILIES.—Section 5(j)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437c(j)(1)) is amended—

- (1) in subparagraph (D), by striking "and" at the end;
- (2) by redesignating subparagraph (E) as subparagraph (F); and

(3) by adding at the end the following new subparagraph:  
 "(E) in the case of an application for development of projects (or portions of projects) designated under section 7(a)(1) for occupancy for elderly families, only if the agency certifies to the Secretary that the use of such assistance will assist in expanding the housing available for eligible persons with disabilities identified in the allocation plan for the agency submitted under section 7(f); and".

#### SEC. 625. CONFORMING AMENDMENTS.

(a) UNITED STATES HOUSING ACT OF 1937.—The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended—

42 USC 1437a.

- (1) in section 3(b)(5)(B), by inserting "or disabled" after "elderly";

42 USC 1437d.

- (2) in the last sentence of section 6(a), by striking "the elderly" and inserting "elderly or disabled families";

42 USC 1437l.

- (3) in section 14(i)(1)(D)(ii), by striking "elderly families and handicapped families" and inserting "elderly and disabled families"; and

42 USC 1437o.

- (4) in section 17(c)(2)(G)(i), by striking "the elderly" and inserting "elderly families".

(b) HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974.—The first sentence of section 209 of the Housing and Community Development Act of 1974 (42 U.S.C. 1438) is amended by striking "the elderly or the handicapped" and inserting "elderly or disabled families".

42 USC 1437a  
note.

#### SEC. 626. INAPPLICABILITY TO INDIAN PUBLIC HOUSING.

The amendments made by this subtitle shall not apply with respect to lower income housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority.

### Subtitle C—Standards and Obligations of Residency in Federally Assisted Housing

42 USC 13601.

#### SEC. 641. COMPLIANCE BY OWNERS AS CONDITION OF FEDERAL ASSISTANCE.

The Secretary of Housing and Urban Development shall require owners of federally assisted housing (as such term is defined in section 683(2)), as a condition of receiving housing assistance for such housing, to comply with the procedures and requirements established under this subtitle.

**SEC. 642. COMPLIANCE WITH CRITERIA FOR OCCUPANCY AS REQUIREMENT FOR TENANCY.** 42 USC 13602.

In selecting tenants for occupancy of units in federally assisted housing, an owner of such housing shall utilize the criteria for occupancy in federally assisted housing established by the Secretary, by regulation, under section 643. If an owner determines that an applicant for occupancy in the housing does not meet such criteria, the owner may deny such applicant occupancy.

**SEC. 643. ESTABLISHMENT OF CRITERIA FOR OCCUPANCY.**

42 USC 13603.

**(a) TASK FORCE.—**

(1) **ESTABLISHMENT.**—To assist the Secretary in establishing reasonable criteria for occupancy in federally assisted housing, the Secretary shall establish a task force to review all rules, policy statements, handbooks, technical assistance memoranda, and other relevant documents issued by the Department of Housing and Urban Development on the standards and obligations governing residency in federally assisted housing and make recommendations to the Secretary for the establishment of such criteria for occupancy.

(2) **MEMBERS.**—The Secretary shall appoint members to the task force, which shall include individuals representing the interests of owners, managers, and tenants of federally assisted housing, public housing agencies, owner and tenant advocacy organizations, persons with disabilities and disabled families, organizations assisting homeless individuals, and social service, mental health, and other nonprofit servicer providers who serve federally assisted housing.

(3) **COMPENSATION.**—Members of the task force shall not receive compensation for serving on the task force.

**(4) DUTIES.**—The task force shall—

(A) review all existing standards, regulations, and guidelines governing occupancy and tenant selection policies in federally assisted housing;

(B) review all existing standards, regulations, and guidelines governing lease provisions and other rules of occupancy for federally assisted housing;

(C) determine whether the standards, regulations, and guidelines reviewed under subparagraphs (A) and (B) provide sufficient guidance to owners and managers of federally assisted housing to—

(i) develop procedures for preselection inquiries sufficient to determine the capacity of applicants to comply with reasonable lease terms and conditions of occupancy;

(ii) utilize leases that prohibit behavior which endangers the health or safety of other tenants or violates the rights of other tenants to peaceful enjoyment of the premises;

(iii) assess the need to provide, and appropriate measures for providing, reasonable accommodations required under the Fair Housing Act and section 504 of the Rehabilitation Act of 1973 for persons with various types of disabilities; and

(iv) comply with civil rights laws and regulations;

(D) propose criteria for occupancy in federally assisted housing, standards for the reasonable performance and behavior of tenants of federally assisted housing, compliance standards consistent with the reasonable accommodation of the requirements of the Fair Housing Act and section 504 of the Rehabilitation Act of 1973, standards for compliance with other civil rights laws, and procedures for the eviction of tenants not complying with such standards consistent with sections 6 and 8 of the United States Housing Act of 1937; and

(E) report to the Congress and the Secretary of Housing and Urban Development pursuant to paragraph (7).

(5) **PROCEDURE.**—In carrying out its duties, the task force shall hold public hearings and receive written comments for a period of not less than 60 days.

(6) **SUPPORT.**—The Secretary of Housing and Urban Development shall cooperate fully with the task force and shall provide support staff and office space to assist the task force in carrying out its duties.

(7) **REPORTS.**—Not later than 3 months after the date of enactment of this Act, the task force shall submit to the Secretary and the Congress a preliminary report describing its initial actions. Not later than 6 months after the date of enactment of this Act, the task force shall submit a report to the Secretary and the Congress, which shall include—

(A) a description of its findings; and

(B) recommendations to revise such standards, regulations, and guidelines to provide accurate and complete guidance to owners and managers of federally assisted housing as determined necessary under paragraph (4).

(b) **RULEMAKING.**—

(1) **AUTHORITY.**—The Secretary shall, by regulation, establish criteria for selection of tenants for occupancy in federally assisted housing and lease provisions for such housing.

(2) **STANDARDS.**—The criteria shall provide sufficient guidance to owners and managers of federally assisted housing to enable them to (A) select tenants capable of complying with reasonable lease terms, (B) utilize leases prohibiting behavior which endangers the health or safety of others or violates the right of other tenants to peaceful enjoyment of the premises, (C) comply with legal requirements to make reasonable accommodations for persons with disabilities, and (D) comply with civil rights laws. The criteria shall be consistent with the requirements under subsections (k) and (l) of section 6 and section 8(d)(1) of the United States Housing Act of 1937 and any similar contract and lease requirements for federally assisted housing. In establishing the criteria, the Secretary shall take into consideration the report of the task force under subsection (a)(7).

(3) **PROCEDURE.**—Not later than 90 days after the submission of the final report under subsection (a)(7), the Secretary shall issue a notice of proposed rulemaking of the regulations under this subsection providing for notice and opportunity for public comment regarding the regulations, pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section). The duration of the period for public comment under such

Regulations.

Regulations.

section 553 shall not be less than 60 days. The Secretary shall issue final regulations under this subsection not later than the expiration of the 60-day period beginning upon the conclusion of the comment period, which shall take effect upon issuance. Regulations.

**SEC. 644. ASSISTED APPLICATIONS.**

42 USC 13604.

(a) **AUTHORITY.**—The Secretary shall provide that any individual or family applying for occupancy in federally assisted housing may include in the application for the housing the name, address, phone number, and other relevant information of a family member, friend, or social, health, advocacy, or other organization, and that the owner shall treat such information as confidential.

(b) **MAINTENANCE OF INFORMATION.**—The Secretary shall require the owner of any federally assisted housing receiving an application including such information to maintain such information for any applicants who become tenants of the housing, for the purposes of facilitating contact by the owner with such person or organization to assist in providing any services or special care for the tenant and assist in resolving any relevant tenancy issues arising during the tenancy of such tenant.

(c) **LIMITATIONS.**—An owner of federally assisted housing may not require any individual or family applying for occupancy in the housing to provide the information described in subsection (a).

## **Subtitle D—Authority To Provide Preferences for Elderly Residents and Units for Disabled Residents in Certain Section 8 Assisted Housing**

**SEC. 651. AUTHORITY.**

42 USC 13611.

Notwithstanding any other provision of law, an owner of a covered section 8 housing project (as such term is defined in section 659) designed primarily for occupancy by elderly families may, in selecting tenants for units in the project that become available for occupancy, give preference to elderly families who have applied for occupancy in the housing, subject to the requirements of this subtitle.

**SEC. 652. RESERVATION OF UNITS FOR DISABLED FAMILIES.**

42 USC 13612.

(a) **REQUIREMENT.**—Notwithstanding any other provision of law, for any project for which an owner gives preference in occupancy to elderly families pursuant to section 651, such owner shall (subject to sections 653, 654, and 655) reserve units in the project for occupancy only by disabled families who are not elderly or near-elderly families (and who have applied for occupancy in the housing) in the number determined under subsection (b).

(b) **NUMBER OF UNITS.**—Each owner required to reserve units in a project for occupancy under subsection (a) shall reserve a number of units in the project that is not less than the lesser of—

- (1) the number of units equivalent to the higher of—

(A) the percentage of units in the project that were occupied by such disabled families upon the date of the enactment of this Act; or

(B) the percentage of units in the project that were occupied by such families upon January 1, 1992; or

(2) 10 percent of the number of units in the project.

42 USC 13613.

#### **SEC. 653. SECONDARY PREFERENCES.**

(a) **INSUFFICIENT ELDERLY FAMILIES.**—If an owner of a covered section 8 housing project in which elderly families are given a preference for occupancy pursuant to section 651 determines (in accordance with regulations established by the Secretary) that there are insufficient numbers of elderly families who have applied for occupancy in the housing to fill all the units in the project not reserved under section 652, the owner may give preference for occupancy of such units to disabled families who are near-elderly families and have applied for occupancy in the housing.

(b) **INSUFFICIENT NON-ELDERLY DISABLED FAMILIES.**—If an owner of a covered section 8 housing project in which elderly families are given a preference for occupancy pursuant to section 651 determines (in accordance with regulations established by the Secretary) that there are insufficient numbers of disabled families who are not elderly or near-elderly families and have applied for occupancy in the housing to fill all the units in the project reserved under section 652, the owner may give preference for occupancy of units so reserved to disabled families who are near-elderly families and have applied for occupancy in the housing.

42 USC 13614.

#### **SEC. 654. GENERAL AVAILABILITY OF UNITS.**

If an owner of a covered section 8 housing project in which disabled families who are near-elderly families are given a preference for occupancy pursuant to subsection (a) or (b) of section 653 determines (in accordance with regulations established by the Secretary) that there are an insufficient number of such families to fill all the units in the project for which the preference is applicable, the owner shall make such units generally available for occupancy by families who have applied, and are eligible, for occupancy in the housing, without regard to the preferences established pursuant to this subtitle.

42 USC 13615.

#### **SEC. 655. PREFERENCE WITHIN GROUPS.**

Among disabled families qualifying for occupancy in units reserved under section 652, and among elderly families and near-elderly families qualifying for preference for occupancy pursuant to section 651 or 653, preference for occupancy in units that are assisted under section 8 of the United States Housing Act of 1937 shall be given to disabled families according to the preferences for occupancy referred to in section 8(d)(1)(A)(i) of the United States Housing Act of 1937 and the first sentence of section 8(o)(3)(B) of such Act, to elderly families according to such preferences, and to near-elderly families according to such preferences, respectively.

42 USC 13616.

#### **SEC. 656. PROHIBITION OF EVICTIONS.**

Any tenant who, except for reservation of a percentage of the units of a project pursuant to section 652 or any preference for occupancy established pursuant to this subtitle, is lawfully residing in a dwelling unit in a covered section 8 housing project, may not be evicted or otherwise required to vacate such unit because



of the reservation or preferences or because of any action taken by the Secretary of Housing and Urban Development or the owner of the project pursuant to this subtitle.

**SEC. 657. TREATMENT OF COVERED SECTION 8 HOUSING NOT SUBJECT TO ELDERLY PREFERENCE.** 42 USC 13617.

If an owner of any covered section 8 housing project designed primarily for occupancy by elderly families does not give preference in occupancy to elderly families as authorized in this subtitle, then elderly families (as such term was defined in section 3 of the United States Housing Act of 1937 before the date of the enactment of this Act) shall be eligible for occupancy in such housing to the same extent that such families were eligible before the date of the enactment of this Act.

**SEC. 658. TREATMENT OF OTHER FEDERALLY ASSISTED HOUSING.** 42 USC 13618.

(a) **RESTRICTED OCCUPANCY.**—An owner of any federally assisted project (or portion of a project) as described in subparagraphs (D), (E), and (F) of section 683(2) that was designed for occupancy by elderly families may continue to restrict occupancy in such project (or portion) to elderly families in accordance with the rules, standards, and agreements governing occupancy in such housing in effect at the time of the development of the housing.

(b) **PROHIBITION OF EVICTIONS.**—Any tenant who is lawfully residing in a dwelling unit in a housing project described in subsection (a) may not be evicted or otherwise required to vacate such unit because of any reservation or preferences under this subtitle or because of any action taken by the Secretary of Housing and Urban Development or the owner of the project pursuant to this subtitle.

**SEC. 659. COVERED SECTION 8 HOUSING.** 42 USC 13619.

For purposes of this subtitle, the term “covered section 8 housing” means housing described in section 683(2)(G) that was originally designed for occupancy by elderly families.

**SEC. 660. SECTION 8 PREFERENCE.**

Section 8(d) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)) is amended by adding at the end the following new paragraph:

“(4) A public housing agency that serves more than one unit of general local government may, at the discretion of the agency, in allocating assistance under this section, give priority to disabled families that are not elderly families.”.

**SEC. 661. STUDY.**

The Secretary of Housing and Urban Development shall conduct a study to determine the extent to which Federal housing programs serve elderly families, disabled families, and families with children, in relation to the need of such families who are eligible for assistance under such programs. The Secretary shall submit a report to the Congress describing the study and the findings of the study not later than the expiration of the 1-year period beginning on the date of the enactment of this Act.

Reports.  
42 USC 13620.

## **Subtitle E—Service Coordinators for Elderly and Disabled Residents of Federally Assisted Housing**

42 USC 13631.

### **SEC. 671. REQUIREMENT TO PROVIDE SERVICE COORDINATORS.**

(a) **IN GENERAL.**—To the extent that amounts are made available to carry out this subtitle pursuant to the amendments made by this subtitle, the Secretary shall require owners of covered federally assisted housing projects (as such term is defined in subsection (d)) receiving such amounts to provide for employing or otherwise retaining the services of one or more individuals to coordinate the provision of supportive services for elderly and disabled families residing in the projects (in this section referred to as a “service coordinator”). No such elderly or disabled family may be required to accept services.

(b) **RESPONSIBILITIES.**—Each service coordinator of a covered federally assisted housing project provided pursuant to this subtitle or the amendments made by this subtitle—

(1) shall consult with the owner of the housing, tenants, any tenant organizations, any resident management organizations, service providers, and any other appropriate persons, to identify the particular needs and characteristics of elderly and disabled families who reside in the project and any supportive services related to such needs and characteristics;

(2) shall manage and coordinate the provision of such services for residents of the project;

(3) may provide training to tenants of the project in the obligations of tenancy or coordinate such training;

(4) shall meet the minimum qualifications and standards required under section 802(d)(4) of the Cranston-Gonzalez National Affordable Housing Act; and

(5) may carry out other appropriate activities for residents of the project.

(c) **INCLUDED SERVICES.**—Supportive services referred to under subsection (b)(1) may include health-related services, mental health services, services for nonmedical counseling, meals, transportation, personal care, bathing, toileting, housekeeping, chore assistance, safety, group and socialization activities, assistance with medications (in accordance with any applicable State laws), case management, personal emergency response, and other appropriate services. The services may be provided through any agency of the Federal Government or any other public or private department, agency, or organization.

(d) **COVERED FEDERALLY ASSISTED HOUSING.**—For purposes of this subtitle, the term “covered federally assisted housing” means housing that is federally assisted housing (as such term is defined in section 683(2), except that such term does not include housing described in subparagraphs (C) and (D) of such section.

### **SEC. 672. REQUIRED TRAINING OF SERVICE COORDINATORS.**

Section 802(d)(4) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8011(d)(4)) is amended by inserting after the period at the end of the first sentence beginning after subparagraph (E) the following new sentence: “Such qualifications and standards shall include requiring each service coordinator to be

trained in the aging process, elder services, disability services, eligibility for and procedures of Federal and applicable State entitlement programs, legal liability issues relating to providing service coordination, drug and alcohol use and abuse by the elderly, and mental health issues.”

**SEC. 673. COSTS OF PROVIDING SERVICE COORDINATORS IN PUBLIC HOUSING.**

Section 9(a)(1)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437g(a)(1)(B)) is amended—

- (1) in the first sentence, by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively;

(2) in the second sentence—

(A) by striking “subparagraph” and inserting “clause”;

(B) by inserting “or section 802 of the Cranston-Gonzalez National Affordable Housing Act” after “Congregate Housing Services Act of 1978”; and

(C) by inserting a period after “section 811 of the Cranston-Gonzalez National Affordable Housing Act”;

(3) by inserting “(i)” after the subparagraph designation;

and

(4) by adding at the end the following new clause:

“(ii) Annual contributions under this section to any public housing agency for any project may be used, with respect to such project, for (I) the cost of employing or otherwise retaining the services of one or more service coordinators under section 661 of the Housing and Community Development Act of 1992 to coordinate the provision of any supportive services within the project for residents of the project who are elderly families and disabled families, and (II) expenses for the provision of such services for such residents of the project. Not more than 15 percent of the cost of the provision of such services may be provided under this section. Services may not be provided under this clause for any person receiving assistance under the Congregate Housing Services Act of 1978 or section 802 of the Cranston-Gonzalez National Affordable Housing Act. The budget authority available under section 5(c) for assistance under this section is authorized to be increased by \$30,000,000 on or after October 1, 1992, and by \$30,000,000 on or after October 1, 1993. Amounts made available under this clause shall be used to provide additional annual contributions to public housing agencies only for the purpose of providing service coordinators and services under this clause for public housing projects.”

**SEC. 674. COSTS OF PROVIDING SERVICE COORDINATORS IN PROJECT-BASED SECTION 8 HOUSING.**

Section 8(d)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(2)) is amended by adding at the end the following new subparagraph:

“(F)(i) In determining the amount of assistance provided under an assistance contract for project-based assistance under this paragraph or a contract for assistance for housing constructed or substantially rehabilitated pursuant to assistance provided under section 8(b)(2) of this Act (as such section existed immediately before October 1, 1983), the Secretary may consider and annually adjust, with respect to such project, for the cost of employing or otherwise retaining the services of one or more service coordinators under section 661 of the Housing and Community Development

Act of 1992 to coordinate the provision of any services within the project for residents of the project who are elderly or disabled families.

“(ii) The budget authority available under section 5(c) for assistance under this section is authorized to be increased by \$15,000,000 on or after October 1, 1992, and by \$15,000,000 on or after October 1, 1993. Amounts made available under this subparagraph shall be used to provide additional amounts under annual contributions contracts for assistance under this section which shall be made available through assistance contracts only for the purpose of providing service coordinators under clause (i) for projects receiving project-based assistance under this paragraph and to provide additional amounts under contracts for assistance for projects constructed or substantially rehabilitated pursuant to assistance provided under section 8(b)(2) of this Act (as such section existed immediately before October 1, 1983) only for such purpose.”

**SEC. 675. COSTS OF PROVIDING SERVICE COORDINATORS FOR FAMILIES RECEIVING FEDERAL TENANT-BASED ASSISTANCE.**

Section 8(q) of the United States Housing Act of 1937 (42 U.S.C. 1437f(q)) is amended—

- (1) by redesignating paragraph (3) as paragraph (4); and
- (2) by inserting after paragraph (2) the following new paragraph:

“(3)(A) Fees under this subsection may be used for the costs of employing or otherwise retaining the services of one or more service coordinators under section 661 of the Housing and Community Development Act of 1992 to coordinate the provision of supportive services for elderly families and disabled families on whose behalf tenant-based assistance is provided under this section or section 811(b)(1). Such service coordinators shall have the same responsibilities with respect to such families as service coordinators of covered federally assisted housing projects have under section 661 of such Act with respect to residents of such projects.

“(B) To the extent amounts are provided in appropriation Acts under subparagraph (C), the Secretary shall increase fees under this subsection to provide for the costs of such service coordinators for public housing agencies.

“(C) The budget authority available under section 5(c) for assistance under this section is authorized to be increased by \$5,000,000 on or after October 1, 1992, and by \$5,000,000 on or after October 1, 1993. Amounts made available under this subparagraph shall be used to provide additional amounts under annual contributions contracts for increased fees under this subsection, which shall be used only for the purpose of providing service coordinators for public housing agencies described in subparagraph (A).”

42 USC 13632.

**SEC. 676. GRANTS FOR COSTS OF PROVIDING SERVICE COORDINATORS IN MULTIFAMILY HOUSING ASSISTED UNDER NATIONAL HOUSING ACT.**

(a) **AUTHORITY.**—The Secretary may make grants under this section to owners of federally assisted housing projects described in subparagraphs (E) and (F) of section 683(2). Any grant amounts shall be used for the costs of employing or otherwise retaining the services of one or more service coordinators under section 661 to coordinate the provision of any services within the project for residents of the project who are elderly families and disabled families (as such terms are defined in section 683 of this Act).

(b) **APPLICATION AND SELECTION.**—The Secretary shall provide for the form and manner of applications for grants under this section and for selection of applicants to receive such grants.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated for fiscal years 1993 and 1994 such sums as may be necessary for grants under this section.

(d) **ELIGIBLE PROJECT EXPENSE.**—For any federally assisted housing project described in subparagraph (E) or (F) of section 683(2) that does not receive a grant under this section, the cost of employing or otherwise retaining the services of one or more service coordinators under section 661 and not more than 15 percent of the cost of providing services to the residents of the project shall be considered an eligible project expense, but only to the extent that amounts are available from project rent and other income for such costs.

**SEC. 677. EXPANDED RESPONSIBILITIES OF SERVICE COORDINATORS IN SECTION 202 HOUSING.**

(a) **SUPPORTIVE HOUSING FOR THE ELDERLY.**—Section 202(g) of the Housing Act of 1959 (12 U.S.C. 1701q(g)), as amended by section 801 of the Cranston-Gonzalez National Affordable Housing Act, is amended—

(A) in paragraph (2), by striking the last sentence; and

(B) by adding at the end the following new paragraph:

“(3) **SERVICE COORDINATORS.**—Any cost associated with employing or otherwise retaining a service coordinator in housing assisted under this section shall be considered an eligible cost under subsection (c)(2). If a project is receiving congregate housing services assistance under section 802 of the Cranston-Gonzalez National Affordable Housing Act, the amount of costs provided under subsection (c)(2) for the project service coordinator may not exceed the additional amount necessary to cover the costs of providing for the coordination of services for residents of the project who are not eligible residents under such section 802. To the extent that amounts are available pursuant to subsection (c)(2) for the costs of carrying out this paragraph within a project, an owner of housing assisted under this section shall provide a service coordinator for the housing to coordinate the provision of services under this subsection within the housing.”

(b) **OLD SECTION 202 PROJECTS.**—

(1) **AVAILABILITY OF SECTION 8 ASSISTANCE.**—Subject to the availability of appropriations for contract amendments for the purpose of this paragraph, in determining the amount of assistance under section 8 of the United States Housing Act of 1937 to be provided for a project assisted under section 202 of the Housing Act of 1959, as in effect before the effectiveness of the amendments made by section 801 of the Cranston-Gonzalez National Affordable Housing Act, the Secretary shall consider (and annually adjust for) the costs of—

(A) employing or otherwise retaining the services of one or more service coordinators under section 661 of this Act to coordinate the provision of any services within the project for residents of the project who are elderly families and disabled families; and

(B) expenses for the provision of such services.

12 USC 1701q  
note.

Not more than 15 percent of the cost of the provision of services under subparagraph (B) may be considered under this paragraph for purposes of determining the amount of assistance provided.

(2) **INAPPLICABILITY OF HUD REFORM ACT PROVISIONS.**—Notwithstanding section 102 of the Department of Housing and Urban Development Reform Act of 1989, the provisions of paragraphs (1), (2), and (3) of subsection (a) of such section shall not apply to amendments to contracts under section 8 of the United States Housing Act of 1937 made to carry out the purposes of paragraph (1) of this subsection.

(3) **LIMITATION.**—If a project is receiving congregate housing services assistance under the Congregate Housing Services Act of 1978 or section 802 of the Cranston-Gonzalez National Affordable Housing Act, the amount of costs provided pursuant to paragraph (1) for the project may not exceed the additional amount necessary to cover the costs of providing for the coordination of services for residents of the project who are not eligible residents under such section 802 or eligible project residents under the Congregate Housing Services Act of 1978, as applicable.

## Subtitle F—General Provisions

### SEC. 681. COMPREHENSIVE HOUSING AFFORDABILITY STRATEGIES.

Section 105(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705(b)) is amended—

(1) in paragraph (1) by inserting “persons with disabilities,” after “the elderly,”; and

(2) by adding after paragraph (16), as added by the preceding provisions of this Act, the following new paragraph:

“(17) describe the jurisdictions activities to enhance coordination between public and assisted housing providers and private and governmental health, mental health, and service agencies.”.

### SEC. 682. CONFORMING AMENDMENTS.

(a) **PUBLIC HOUSING.**—Section 6(c)(4) of the United States Housing Act of 1937 (42 U.S.C. 1437d(c)(4)) is amended—

(1) by striking “and” at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting “; and”; and

(3) by adding at the end the following new subparagraph:

“(F) requiring the public housing agency to ensure and maintain compliance with subtitle C of title VI of the Housing and Community Development Act of 1992 and any regulations issued under such subtitle.”.

(b) **PROJECT-BASED SECTION 8 HOUSING.**—Section 8(d)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(2)), as amended by section 664 of this Act, is further amended by adding at the end the following new subparagraphs:

“(G) An assistance contract for project-based assistance under this paragraph shall provide that the owner shall ensure and maintain compliance with subtitle C of title VI of the Housing and Community Development Act of 1992 and any regulations issued under such subtitle.

“(H) Notwithstanding subsection (d)(1)(A)(i), an owner of a covered section 8 housing project (as such term is defined in section 659 of the Housing and Community Development Act of 1992) may give preference for occupancy of dwelling units in the project, and reserve units for occupancy, in accordance with subtitle D of title VI of the Housing and Community Development Act of 1992.”

(c) **SUPPORTIVE HOUSING FOR THE ELDERLY.**—Section 202 of the Housing Act of 1959 (12 U.S.C. 1701q), as amended by section 801 of the Cranston-Gonzalez National Affordable Housing Act, is amended—

(1) in subsection (i)(1), by inserting after the first sentence the following new sentence: “Such tenant selection procedures shall comply with subtitle C of title VI of the Housing and Community Development Act of 1992 and any regulations issued under such subtitle.”; and

(2) in subsection (j), by adding after paragraph (6) (as added by section 601(d) of this Act) the following new paragraph:

“(7) **COMPLIANCE WITH HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992.**—Each owner shall operate housing assisted under this section in compliance with subtitle C of title VI of the Housing and Community Development Act of 1992 and any regulations issued under such subtitle.”

#### **SEC. 683. DEFINITIONS.**

42 USC 13641.

For purposes of this title:

(1) **ELDERLY, DISABLED, AND NEAR-ELDERLY FAMILIES.**—The terms “elderly family”, “disabled family”, and “near-elderly family” have the meanings given the terms under section 3(b)(3) of the United States Housing Act of 1937.

(2) **FEDERALLY ASSISTED HOUSING.**—The terms “federally assisted housing” and “project” mean—

(A) a public housing project (as such term is defined in section 3(b) of the United States Housing Act of 1937);

(B) housing for which project-based assistance is provided under section 8 of the United States Housing Act of 1937;

(C) housing that is assisted under section 202 of the Housing Act of 1959 (as amended by section 801 of the Cranston-Gonzalez National Affordable Housing Act);

(D) housing that is assisted under section 202 of the Housing Act of 1959, as such section existed before the enactment of the Cranston-Gonzalez National Affordable Housing Act;

(E) housing financed by a loan or mortgage insured under section 221(d)(3) of the National Housing Act that bears interest at a rate determined under the proviso of section 221(d)(5) of such Act;

(F) housing insured, assisted, or held by the Secretary or a State or State agency under section 236 of the National Housing Act; and

(G) housing constructed or substantially rehabilitated pursuant to assistance provided under section 8(b)(2) of the United States Housing Act of 1937, as in effect before October 1, 1983, that is assisted under a contract for assistance under such section.

(3) **HOUSING ASSISTANCE.**—The term “housing assistance” means, with respect to federally assisted housing, the grant, contribution, capital advance, loan, mortgage insurance, or other assistance provided for the housing under the provisions of law referred to in paragraph (2). The term also includes any related assistance provided for the housing by the Secretary, including any rental assistance for low-income occupants.

(4) **OWNER.**—The term “owner” means, with respect to federally assisted housing, the entity or private person, including a cooperative or public housing agency, that has the legal right to lease or sublease dwelling units in such housing.

(5) **SECRETARY.**—The term “Secretary” means the Secretary of Housing and Urban Development.

42 USC 13642.

**SEC. 684. APPLICABILITY.**

Except as otherwise provided in subtitles B through F of this title and the amendments made by such subtitles, such subtitles and the amendments made by such subtitles shall apply upon the expiration of the 6-month period beginning on the date of the enactment of this Act.

42 USC 13643.

**SEC. 685. REGULATIONS.**

The Secretary shall issue regulations necessary to carry out subtitles B through F of this title and the amendments made by such subtitles not later than the expiration of the 6-month period beginning on the date of the enactment of this Act. The regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section).

## TITLE VII—RURAL HOUSING

**SEC. 701. PROGRAM AUTHORIZATIONS.**

(a) **INSURANCE AND GUARANTEE AUTHORITY.**—Section 513(a)(1) of the Housing Act of 1949 (42 U.S.C. 1483(a)(1)) is amended to read as follows:

“(a) **IN GENERAL.**—(1) The Secretary may, to the extent approved in appropriation Acts, insure and guarantee loans under this title during fiscal years 1993 and 1994, in aggregate amounts not to exceed \$2,446,855,600 and \$2,549,623,535, respectively, as follows:

“(A) For insured or guaranteed loans under section 502 on behalf of low-income borrowers receiving assistance under section 521(a)(1), \$1,676,484,000 for fiscal year 1993 and \$1,746,896,328 for fiscal year 1994.

“(B) For guaranteed loans under section 502(h) on behalf of low- and moderate-income borrowers, such sums as may be appropriated for fiscal years 1993 and 1994.

“(C) For loans under section 504, \$12,400,000 for fiscal year 1993 and \$12,920,800 for fiscal year 1994.

“(D) For insured loans under section 514, \$16,821,600 for fiscal year 1993 and \$17,528,107 for fiscal year 1994.

“(E) For insured loans under section 515, \$739,500,000 for fiscal year 1993 and \$770,559,000 for fiscal year 1994.



"(F) For loans under section 523(b)(1)(B), \$800,000 for fiscal year 1993 and \$833,600 for fiscal year 1994.

"(G) For site loans under section 524, \$850,000 for fiscal year 1993 and \$885,700 for fiscal year 1994."

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 513(b) of the Housing Act of 1949 (42 U.S.C. 1483(b)) is amended to read as follows:

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal years 1993 and 1994, and to remain available until expended, the following amounts:

"(1) For grants under section 502(f)(1), \$1,100,000 for fiscal year 1993 and \$1,146,200 for fiscal year 1994.

"(2) For grants under section 504, \$21,100,000 for fiscal year 1993 and \$21,986,200 for fiscal year 1994.

"(3) For purposes of section 509(c), \$600,000 for fiscal year 1993 and \$625,200 for fiscal year 1994.

"(4) For project preparation grants under section 509(f)(6), \$5,300,000 in fiscal year 1993 and \$5,522,600 in fiscal year 1994.

"(5) In fiscal years 1993 and 1994, such sums as may be necessary to meet payments on notes or other obligations issued by the Secretary under section 511 equal to—

"(A) the aggregate of the contributions made by the Secretary in the form of credits on principal due on loans made pursuant to section 503; and

"(B) the interest due on a similar sum represented by notes or other obligations issued by the Secretary.

"(6) For grants for service coordinators under section 515(y), \$1,000,000 in fiscal year 1993 and \$1,042,000 in fiscal year 1994.

"(7) For financial assistance under section 516—

"(A) for low-rent housing and related facilities for domestic farm labor under subsections (a) through (j) of such section, \$21,700,000 for fiscal year 1993 and \$22,611,400 for fiscal year 1994; and

"(B) for housing for rural homeless and migrant farmworkers under subsection (k) of such section, \$10,500,000 for fiscal year 1993 and \$10,941,000 for fiscal year 1994.

"(8) For grants under section 523(f), \$13,900,000 for fiscal year 1993 and \$14,483,800 for fiscal year 1994.

"(9) For grants under section 533, \$30,800,000 for fiscal year 1993 and \$32,093,600 for fiscal year 1994."

(c) RENTAL ASSISTANCE PAYMENT CONTRACTS.—Section 513(c)(1) of the Housing Act of 1949 (42 U.S.C. 1483(c)(1)) is amended to read as follows:

"(c) RENTAL ASSISTANCE.—(1) The Secretary, to the extent approved in appropriations Acts for fiscal years 1993 and 1994, may enter into rental assistance payment contracts under section 521(a)(2)(A) aggregating \$414,100,000 for fiscal year 1993 and \$431,492,200 for fiscal year 1994."

(d) SUPPLEMENTAL RENTAL ASSISTANCE PAYMENT CONTRACTS.—Section 513(d) of the Housing Act of 1949 (42 U.S.C. 1483(d)) is amended to read as follows:

"(d) SUPPLEMENTAL RENTAL ASSISTANCE CONTRACTS.—The Secretary, to the extent approved in appropriations Acts for fiscal years 1993 and 1994, may enter into 5-year supplemental rental assistance contracts under section 502(c)(5)(D) aggregating

\$12,178,000 for fiscal year 1993 and \$12,689,476 for fiscal year 1994.”

(e) RENTAL HOUSING LOAN AUTHORITY.—Section 515(b)(4) of the Housing Act of 1949 (42 U.S.C. 1485(b)(4)) is amended by striking “September 30, 1992” and inserting “September 30, 1994”.

(f) RURAL HOUSING VOUCHER PROGRAM.—Section 513(e) of the Housing Act of 1949 (42 U.S.C. 1483(e)) is amended to read as follows:

“(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for rural housing vouchers under section 542, \$130,000,000 for fiscal year 1993 and \$140,000,000 for fiscal year 1994.”

(g) DEFERRED MORTGAGE DEMONSTRATION.—Section 502(g)(3) of the Housing Act of 1949 (42 U.S.C. 1472(g)(3)) is amended by striking “1991 and 1992” and inserting “1993 and 1994”.

**SEC. 702. ELIGIBILITY OF HOMES ON LEASED LAND OWNED BY COMMUNITY LAND TRUSTS FOR SECTION 502 LOANS.**

(a) ELIGIBILITY.—Section 502(a) of the Housing Act of 1949 (42 U.S.C. 1472(a)) is amended by adding at the end the following new paragraph:

“(3)(A) Notwithstanding any other provision of this title, a loan may be made under this section for the purchase of a dwelling located on land owned by a community land trust, if the borrower and the loan otherwise meet the requirements applicable to loans under this section.

“(B) For purposes of this paragraph, the term ‘community land trust’ means a community housing development organization as such term is defined in section 104 of the Cranston-Gonzalez National Affordable Housing Act (except that the requirements under section 104(6)(C) and section 104(6)(D) shall not apply for purposes of this paragraph)—

“(i) that is not sponsored by a for-profit organization;

“(ii) that is established to carry out the activities under clause (iii);

“(iii) that—

“(I) acquires parcels of land, held in perpetuity, primarily for conveyance under long-term ground leases;

“(II) transfers ownership of any structural improvements located on such leased parcels to the lessees; and

“(III) retains a preemptive option to purchase any such structural improvement at a price determined by formula that is designed to ensure that the improvement remains affordable to low- and moderate-income families in perpetuity; and

“(iv) that has its corporate membership open to any adult resident of a particular geographic area specified in the bylaws of the organization.”

(b) RECAPTURE.—Section 521(a)(1)(D) of the Housing Act of 1949 (42 U.S.C. 1490a(a)(1)(D)) is amended—

(1) by inserting “(i)” after “(D)”; and

(2) by adding at the end the following new clause:

“(ii) In determining the amount recaptured under this subparagraph with respect to any loan made pursuant to section 502(a)(3) for the purchase of a dwelling located on land owned by a community land trust, the Secretary shall determine any appreciation of the dwelling based on any agreement between the borrower

and the community land trust that limits the sale price or appreciation of the dwelling.”.

**SEC. 703. MAXIMUM INCOME OF BORROWERS UNDER GUARANTEED LOANS.**

Section 502(h)(2) of the Housing Act of 1949 (42 U.S.C. 1472(h)(2)) is amended by inserting “115 percent of” after “exceed”.

**SEC. 704. REMOTE RURAL AREAS.**

Section 502(f) of the Housing Act of 1949 (42 U.S.C. 1472(f)) is amended—

(1) in paragraph (1), by inserting “or on tribal allotted or Indian trust land” after “area”; and

(2) in paragraph (2), by inserting “or on tribal allotted or Indian trust land” before the period.

**SEC. 705. DESIGNATION OF UNDERSERVED AREAS AND RESERVATION OF ASSISTANCE.**

(a) **REAUTHORIZATION OF DESIGNATION.**—Section 509(f) of the Housing Act of 1949 (42 U.S.C. 1479(f)) is amended—

(1) in paragraph (1), by striking “in each of fiscal years 1991 and 1992” and inserting “in each fiscal year”;

(2) in paragraph (2), by inserting at the end the following new flush sentence:

“In designating underserved areas under paragraph (1), in each fiscal year the Secretary shall designate not less than 5 counties or communities that contain tribal allotted or Indian trust land.”; and

(3) in paragraph (4), by striking “an amount equal to 3.5 percent in fiscal year 1991 and 5.0 percent in fiscal year 1992” and inserting “an amount equal to 5.0 percent in fiscal years 1993 and 1994”.

(b) **DEFINITION OF COLONIAS.**—Section 509(f)(8) of the Housing Act of 1949 (42 U.S.C. 1479(f)(8)) is amended—

(1) by striking subparagraph (C);

(2) by redesignating subparagraph (D) as subparagraph (C); and

(3) by striking subparagraph (E) and inserting the following new subparagraph:

“(D) was in existence as a colonia before the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act.”.

(c) **COLONIAS REFINEMENTS.**—Section 509(f)(4)(B)(ii) of the Housing Act of 1949 (42 U.S.C. 1479(f)(4)(B)(ii)) is amended by inserting before “a colonia”, the following “, or in close proximity to, and serving the residents of,”.

**SEC. 706. RURAL HOUSING VOUCHER PROGRAM.**

Title V of the Housing Act of 1949 (42 U.S.C. 501 et seq.) is amended—

(1) in the last sentence of section 533(a) (42 U.S.C. 1490m(a)), by inserting after “1937” the following: “or section 542 of this title”; and

(2) by adding at the end the following new section:

**“SEC. 542. RURAL HOUSING VOUCHER PROGRAM.**

42 USC 1490r.

“(a) **IN GENERAL.**—To such extent or in such amounts as are approved in appropriation Acts, the Secretary shall carry out a

rural housing voucher program to assist very low-income families and persons to reside in rental housing in rural areas. For such purposes, the Secretary may provide assistance using a payment standard based on the fair market rental rate established by the Secretary for the area. The monthly assistance payment for any family shall be the amount by which the payment standard for the area exceeds 30 per centum of the family's monthly adjusted income, except that such monthly assistance payment shall not exceed the amount which the rent for the dwelling unit (including the amount allowed for utilities in the case of a unit with separate utility metering) exceeds 10 per centum of the family's monthly gross income.

“(b) COORDINATION AND LIMITATION.—In carrying out the rural housing voucher program under this section, the Secretary shall—

“(1) coordinate activities under this section with activities assisted under sections 515 and 533 of this title; and

“(2) enter into contracts for assistance for not more than 5000 units in any fiscal year.”.

#### SEC. 707. RENTAL HOUSING LOANS.

(a) DEVELOPMENT COSTS.—Section 515(e)(4) of the Housing Act of 1949 (42 U.S.C. 1485(e)(4)) is amended—

(1) by striking “and” before “initial”;

(2) by inserting before the first period the following: “, impact fees, local charges for installation, provision, or use of infrastructure, and local assessments for public improvements and services imposed by State and local governments”; and

(3) by inserting after the period at the end the following new sentence: “Notwithstanding the first sentence of this paragraph, the term ‘development cost’ shall not include any initial operating expenses in the case of any nonprofit corporation or consumer cooperative that is financing housing under this section and has been allocated a low-income housing tax credit by a housing credit agency pursuant to section 42 of the Internal Revenue Code of 1986.”.

(b) COORDINATION OF LOANS AND RENTAL ASSISTANCE PAYMENTS.—Section 515 of the Housing Act of 1949 (42 U.S.C. 1485) is amended—

(1) in subsection (l), by striking paragraph (1) and inserting the following new paragraph:

“(1) in the case of any applicant who applies for rental assistance payments under section 521 in connection with such project, the Secretary shall consider the availability of such rental assistance payments with respect to the project and shall require such applicant to demonstrate that a market exists for persons and families eligible for such rental assistance payments; and”; and

(2) in subsection (p)—

(1) in paragraph (4), by striking “, except” in the first sentence and all that follows through the end of the paragraph and inserting a period; and

(2) by inserting at the end the following new paragraph:

“(5) The Secretary shall coordinate the processing of any application for a loan under this section for a project and the processing of any application for assistance under section 521(a)(2)

with respect to housing units in the same project in an economical and efficient manner. At the time the Secretary enters into a commitment to make or insure a loan under this section the Secretary shall obligate amounts for assistance payments under section 521(a)(2) for the project, to the extent that such amounts are available and the Secretary determines such assistance is necessary for the market feasibility of the project.”.

(c) **EQUITY CONTRIBUTION.**—Section 515(r)(2) of the Housing Act of 1949 (42 U.S.C. 1485(r)(2)) is amended by inserting before the period at the end the following: “, except that the Secretary shall require a 5 percent contribution in the case of a project that is allocated a low-income housing tax credit pursuant to section 42 of the Internal Revenue Code of 1986”.

(d) **UNIFORM PROJECT COSTS AND COORDINATION OF HOUSING RESOURCES AND TAX BENEFITS.**—Section 515 of the Housing Act of 1949 (42 U.S.C. 1485) is amended by adding at the end the following new subsection:

“(x) **UNIFORM PROJECT COSTS; COORDINATION OF HOUSING RESOURCES AND TAX BENEFITS.**—The Secretary shall—

“(1) establish standard guidelines for State offices that describe allowable development costs which are required for development of all projects under this section, without regard to whether the project was allocated a low-income housing tax credit;

“(2) require each State to establish a process for coordinating the selection of projects under this section with the housing needs and priorities as established in a State comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act and a low-income housing tax credit allocation plan under section 42 of the Internal Revenue Code of 1986; and

“(3) develop, in consultation with housing credit agencies (as that term is defined under section 42 of the Internal Revenue Code of 1986), uniform procedures for identifying and sharing information on project costs, builder profit, identity of interests relationships, and other factors, as appropriate, with the relevant housing credit agency for projects that are allocated a low-income housing tax credit pursuant to section 42(h) of the Internal Revenue Code of 1986 for the purpose of achieving compliance with section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545(d)).”.

(e) **GRANTS FOR COSTS OF PROVIDING SERVICE COORDINATORS.**—Section 515 of the Housing Act of 1949 (42 U.S.C. 1485), as amended by this section, is further amended by adding at the end the following new subsection:

“(y) **SERVICE COORDINATORS.**—

“(1) **GRANTS.**—The Secretary may make grants under this subsection, with respect to any project that the Secretary determines has a sufficient number of frail elderly residents, for the cost of employing or otherwise retaining the services of one or more individuals to coordinate services provided to frail elderly residents of the project (in this subsection referred to as a ‘service coordinator’), who shall be responsible for—

“(A) assessing the supportive service needs of frail elderly residents of the project, based on objective criteria and interviews with such residents;

"(B) working with service providers to design the provision of services to meet the needs of frail elderly residents of the project, taking into consideration the needs and desires of such residents and their ability and willingness to pay for such services, as expressed by the residents;

"(C) mobilizing public and private resources to obtain funding for such services for such residents;

"(D) monitoring and evaluating the impact and effectiveness of any supportive services provided for such residents;

"(E) consulting and coordinating with any appropriate public and private agencies regarding the provision of supportive services; and

"(F) performing such other duties that the Secretary deems appropriate to enable frail elderly persons residing in federally assisted housing to live with dignity and independence.

"(2) **QUALIFICATIONS.**—Individuals employed as service coordinators pursuant to this subsection shall meet the minimum qualifications and standards established under section 802(d)(4) of the Cranston-Gonzalez National Affordable Housing Act for service coordinators under a congregate housing services program.

"(3) **APPLICATION AND SELECTION.**—The Secretary shall provide for the form and manner of applications for grants under this subsection and for the selection of applicants to receive the grants.

"(4) **DEFINITION OF FRAIL ELDERLY.**—For purposes of this subsection, the term 'frail elderly' has the meaning given the term in section 802(k) of the Cranston-Gonzalez National Affordable Housing Act."

**(f) PROHIBITIONS REGARDING CONSIDERATIONS IN MAKING LOANS.—**

"(1) **IN GENERAL.**—Section 515 of the Housing Act of 1949 (42 U.S.C. 1485), as amended by this section, is further amended by adding at the end the following new subsection: "(z) **PROHIBITIONS.**—

"(1) **REMOTE RURAL AREAS.**—The Secretary may not refuse to make a loan that otherwise complies with the requirements under this section solely because the housing and related facilities involved are located in an area that is excessively rural in character or excessively remote.

"(2) **ESSENTIAL SERVICES.**—In making loans under this section, the Secretary may not provide any preference for any project based on the availability of any particular essential service. For purposes of this paragraph, an essential service shall include post offices (and postal services), grocery stores, pharmacies, schools, and health service facilities (and health services).

"(3) **GEOGRAPHIC LOCATION.**—In making loans under this section, the Secretary may not grant or deny approval based on the geographic location of the proposed project if the project is located in a rural area, as such term is defined in section 520, except that the Secretary shall give preference to any application for a project that will serve the needs of a rural community located 20 or more miles from an urban area."

(2) **REGULATIONS.**—The Secretary of Agriculture shall issue any regulations necessary to carry out the amendment made by paragraph (1) not later than the expiration of the 45-day period beginning on the date of the enactment of this Act. Not later than the expiration of the 30-day period beginning on the date of the enactment of this Act, the Secretary shall submit a copy of any regulations to be issued under this subsection to the Congress. The requirements of section 534(d) of the Housing Act of 1949 and subsections (b) and (c) of section 553 of title 5, United States Code, shall apply to any such regulations.

42 USC 1485  
note.

(g) **INDEPENDENT COST CERTIFICATIONS.**—Section 517(j)(3) of the Housing Act of 1949 (42 U.S.C. 1487(j)(3)) is amended by inserting after “industry,” the following: “independent audits of project expenses,”.

**SEC. 708. NONPROFIT SET-ASIDE.**

(a) **IN GENERAL.**—Section 515(w) of the Housing Act of 1949 (42 U.S.C. 1485(w)) is amended—

(1) in paragraph (1), by striking “not less than 7 percent of the amounts available in fiscal year 1991 and not less than 9 percent of the amounts available in fiscal year 1992” and inserting “not less than 9 percent of the amounts available in fiscal years 1993 and 1994”;

(2) in paragraph (1), in the second sentence by striking “or under whole or partial control with a for-profit entity”;

(3) in paragraph (1), by adding at the end the following new sentence: “A partnership, that has as its general partner a nonprofit entity or the nonprofit entity’s for-profit subsidiary, is eligible to receive funds set aside under this subsection to sponsor a project which is receiving low-income housing tax credits authorized under section 42 of the Internal Revenue Code of 1986. For the purposes of this subsection, a nonprofit entity is an organization that—

“(A) will own an interest in a project to be financed under this section and will materially participate in the development and the operation of the project;

“(B) is a private organization that has nonprofit, tax exempt status under section 501(c)(3) or section 501(c)(4) of the Internal Revenue Code of 1986;

“(C) has among its purposes the planning, development, or management of low-income housing or community development projects; and

“(D) is not affiliated with or controlled by a for-profit organization.”;

(4) in paragraph (2), by adding at the end the following: “The Secretary may provide amounts available for reallocation under this subsection in excess of \$750,000 in a given State, if such amounts are necessary to finance a project under this section.”; and

(5) by striking paragraph (3) and inserting the following:

“(3) **UNUSED AMOUNTS.**—

“(A) **EQUITABLE DISTRIBUTION.**—Any amounts set aside under this subsection from the allocation for any State that are not obligated by 9 months after the allocation, shall first be pooled and made available to any other eligible nonprofit entity in any State as defined in this

subsection. The Secretary shall make reasonable efforts to ensure that pooled funds are distributed under this subparagraph in an equitable manner.

“(B) RETURN TO THE STATES.—After funds have been pooled and obligated for 30 days, the Secretary shall return any remaining funds to the States on a proportional basis for use by any other eligible entity as defined in this section.”

42 USC 1485  
note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(5) shall take effect on October 1, 1993, and shall apply to fiscal year 1994 and each fiscal year thereafter.

#### **SEC. 709. CONSIDERATION OF CERTAIN AREAS AS RURAL AREAS.**

Section 520 of the Housing Act of 1949 (42 U.S.C. 1490) is amended by adding at the end the following new sentence: “Notwithstanding any other provision of this section, the city of Plainview, Texas, shall be considered a rural area for purposes of this title.”

#### **SEC. 710. PERMANENT AUTHORITY FOR SECTION 523.**

Section 523 of the Housing Act of 1949 (42 U.S.C. 1490c) is amended—

(1) in subsection (b)(1)(A), by inserting after “efforts” the following: “, including the repair of units financed under section 502 that are being held in inventory”; and

(2) by striking subsection (f).

#### **SEC. 711. HOUSING PRESERVATION GRANTS FOR REPLACEMENT OF HOUSING.**

Section 533 of the Housing Act of 1949 (42 U.S.C. 1490m) is amended—

(1) in subsection (a)—

(A) by inserting “or replace” after “rehabilitate” each place it appears; and

(B) in the second sentence, by inserting “or replaced” after “rehabilitated”;

(2) in subsection (b)—

(A) by striking “Rehabilitation programs” and inserting “Preservation programs”;

(B) in paragraph (3), by inserting “or replacement” after “rehabilitation” each place it appears;

(C) in paragraph (4), by striking “repair and rehabilitation” and inserting “repair, rehabilitation, and replacement”;

(D) by redesignating paragraphs (2) through (6) (as amended by this paragraph) as paragraphs (3) through (7), respectively; and

(E) by inserting after paragraph (1) the following new paragraph:

“(2) be used to provide loans or grants, not to exceed \$15,000 per unit, to owners of single family housing to replace existing housing if repair or rehabilitation of the housing is determined by the Secretary not to be practicable and the owner of the housing is unable to afford a loan under section 502 for replacement housing.”;

(3) in the first sentence of subsection (c)(1), by striking “rehabilitation grant funds” and inserting “grant funds under this section”; and

(4) in subsection (d)—



(A) in paragraph (1), by striking "rehabilitation program" and inserting "preservation program";

(B) in paragraphs (3)(A), (3)(B), and (3)(D), by striking "repair and rehabilitation" each place it appears and inserting "repair, rehabilitation, and replacement";

(C) in paragraph (4), by inserting ", or replacement," after "repair and rehabilitation"; and

(D) by adding at the end the following new paragraph:

"(5) A grantee may use housing preservation grant funds under this section for replacement housing only after providing documentation to the Secretary that—

"(A) the existing housing is in such poor condition that rehabilitation is not economically feasible;

"(B) the owner of the housing lacks the income or repayment ability necessary to qualify for a loan under section 502; and

"(C) the grantee will extend assistance to the owner of the housing under terms that the owner can afford."

#### SEC. 712. PRESERVATION.

(a) **APPLICABILITY.**—Section 502(c) of the Housing Act of 1949 (42 U.S.C. 1472(c)) is amended—

(1) in subparagraph (2), by striking "before December 21, 1979," and inserting "prior to the date of enactment of the Department of Housing and Urban Development Reform Act of 1989";

(2) in subparagraph (4)(A), by striking "before December 21, 1979" and inserting "prior to the date of enactment of the Department of Housing and Urban Development Reform Act of 1989";

(3) in subparagraph (5)(F), by striking "before December 21, 1979" and inserting "prior to the date of enactment of the Department of Housing and Urban Development Reform Act of 1989"; and

(4) in subparagraph (5)(G), by striking "before December 21, 1979" and inserting "prior to the date of enactment of the Department of Housing and Urban Development Reform Act of 1989".

(b) **INCENTIVES.**—Section 502(c)(4)(B) of the Housing Act of 1949 (42 U.S.C. 1472(c)(4)(B)) is amended by adding the following new clause:

"(vi) In the case of a project that has received rental assistance under section 8 of the United States Housing Act of 1937, permitting the owner to receive rent in excess of the amount determined necessary by the Secretary to defray the cost of long-term repair or maintenance of such a project."

(c) **OFFICE OF RURAL HOUSING PRESERVATION.**—Title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.) is amended by inserting after section 536 the following:

#### "SEC. 537. OFFICE OF RURAL HOUSING PRESERVATION.

42 USC 1490p-1.

"(a) **ESTABLISHMENT.**—There is established within the Farmers Home Administration an Office of Rental Housing Preservation (hereafter in this section referred to as the 'Office'). The Office shall be headed by a Director designated by the Secretary of Agriculture.

"(b) **PURPOSES.**—The purposes of the Office are:

"(1) to review and process applications under section 502(c) and section 515(t) related to the preservation of rural rental housing;

"(2) to provide technical or financial assistance to any other projects needing such assistance;

"(3) to coordinate and direct all other activities related to the preservation of rural housing; and

"(4) to monitor compliance of projects prepaid or receiving incentives under the Housing Act of 1949."

#### SEC. 713. DISASTER ASSISTANCE.

Section 541(a)(1) of the Housing Act of 1949 (42 U.S.C. 1490q(a)(1)) is amended in the first sentence by striking "amounts available under this title" and inserting "amounts made available to the Secretary by an appropriations Act for such purpose".

#### SEC. 714. PROHIBITION ON TRANSFER OF RURAL HOUSING PROGRAMS.

Section 501 of the Housing Act of 1949 (42 U.S.C. 1471) is amended by adding at the end the following new subsection:

"(j) PROGRAM TRANSFERS.—Notwithstanding any other provision of law, the Secretary shall not transfer any program authorized by this title to the Rural Development Administration."

#### SEC. 715. SITE ACQUISITION AND DEVELOPMENT.

Section 524(a) of the Housing Act of 1949 (42 U.S.C. 1490d(a)) is amended—

(1) by inserting "(1) IN GENERAL.—" before "The Secretary" in the first sentence; and

(2) by adding at the end the following:

"(2) REVOLVING FUNDS.—The Secretary may make grants to nonprofit housing agencies to establish revolving loan funds for the acquisition and preparation of building sites for low-income housing. Any proceeds and repayments from such loans shall be returned to the revolving loan fund to be used for purposes related to this section. Loan funds and interest payments shall be used solely for the acquisition of land; the preparation of land for building sites; the payment of reimbursable legal and technical costs; and technical assistance and administrative costs, not to exceed 10 percent of the fund."

#### SEC. 716. RECIPROCITY IN APPROVAL OF HOUSING SUBDIVISIONS AMONG FEDERAL AGENCIES.

(a) EXTENSION OF AUTHORITY.—Section 535(b) of the Housing Act of 1949 (42 U.S.C. 1490o(b)) is amended by striking the last sentence and inserting the following new sentence: "This subsection shall not apply after June 15, 1993."

(b) RETROACTIVITY.—Any administrative approval of any housing subdivision made after the expiration of the 18-month period beginning on the date of the enactment of the Department of Housing and Urban Development Reform Act of 1989 and before the date of the enactment of this Act is approved and shall be considered to have been lawfully made, but only if otherwise made in accordance with the provisions of section 535(b) of the Housing Act of 1949.

(c) APPROVAL BY LOCAL, COUNTY, OR STATE AGENCIES.—Section 535 of the Housing Act of 1949 (42 U.S.C. 1490o) is amended by adding at the end the following new subsection:

Termination  
date.  
42 USC 1490o.

42 USC 1490o  
note.

“(d) For loans made under this title, the Secretary may accept subdivisions that have been approved by local, county, or State agencies.”.

## **TITLE VIII—COMMUNITY DEVELOPMENT**

### **Subtitle A—Community Development Block Grants**

#### **SEC. 801. COMMUNITY DEVELOPMENT AUTHORIZATIONS.**

(a) **COMMUNITY DEVELOPMENT BLOCK GRANTS.**—Section 103 of the Housing and Community Development Act of 1974 (42 U.S.C. 5303) is amended by striking the second and third sentences and inserting the following: “For purposes of assistance under section 106, there are authorized to be appropriated \$4,000,000,000 for fiscal year 1993 and \$4,168,000,000 for fiscal year 1994.”

Appropriation  
authorization.

(b) **LIMITATION ON LOAN GUARANTEES.**—The fifth sentence of section 108(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(a)) is amended to read as follows: “Notwithstanding any other provision of law and subject only to the absence of qualified applicants or proposed activities and to the authority provided in this section, to the extent approved or provided in appropriation Acts, the Secretary shall enter into commitments to guarantee notes and obligations under this section with an aggregate principal amount of \$2,000,000,000 for fiscal year 1993 and \$2,000,000,000 for fiscal year 1994.”

(c) **SPECIAL PURPOSE GRANTS.**—

(1) **SET-ASIDE.**—Section 107 of the Housing and Community Development Act of 1974 (42 U.S.C. 5307) is amended by striking “SEC. 107. (a)” and all that follows through the end of subsection (a) and inserting the following:

“SEC. 107. (a) **SET-ASIDE.**—

“(1) **IN GENERAL.**—For each fiscal year (except as otherwise provided in this paragraph), of the total amount provided in appropriation Acts under section 103 for the fiscal year, \$60,000,000 shall be set aside for grants under subsection (b) for such year for the following purposes:

“(A) \$7,000,000 shall be available for grants under subsection (b)(1);

“(B) \$6,500,000 shall be available for grants under subsection (b)(3);

“(C) \$6,000,000 shall be available for grants under subsection (b)(5);

“(D) \$6,000,000 shall be available in fiscal year 1993 for grants under subsection (b)(7);

“(E) \$3,000,000 shall be available for grants under subsection (c);

“(F) such sums as may be necessary shall be available for grants under paragraphs (2), (4), and (6) of subsection (b);

“(G) \$2,000,000 shall be available in fiscal year 1993 for a grant to the City of Bridgeport, Connecticut, subject to the approval of sufficient amounts in an appropriation Act and to binding commitments made by the City of

Bridgeport and the State of Connecticut that the city and State, respectively, will supplement such amount with \$2,000,000 of additional funds;

"(H) \$15,000,000 shall be available for grants under the Removal of Regulatory Barriers to Affordable Housing Act of 1992; and

"(I) \$7,500,000 shall be available to carry out the Community Outreach Partnership Act of 1992.

"(2) TREATMENT OF GRANTS.—Any grants made under this section shall be in addition to any other grants that may be made under this title to the same entities for the same purposes."

(2) OTHER PURPOSES.—Section 107(b) of the Housing and Community Development Act of 1974 (42 U.S.C. 5307(b)) is amended—

(A) in paragraph (3), by striking "and" at the end;

(B) in paragraph (4), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

"(5) to States and units of general local government and institutions of higher education having a demonstrated capacity to carry out eligible activities under this title, except that the Secretary may make a grant under this paragraph only to a State or unit of general local government that jointly, with an institution of higher education, has prepared and submitted to the Secretary an application for such grant, as the Secretary shall by regulation require;

"(6) to units of general local government in nonentitlement areas for planning community adjustments and economic diversification activities, which may include any eligible activities under section 105, required—

"(A) by the proposed or actual establishment, realignment, or closure of a military installation,

"(B) by the cancellation or termination of a Department of Defense contract or the failure to proceed with an approved major weapon system program, or

"(C) by a publicly announced planned major reduction in Department of Defense spending that would directly and adversely affect a unit of general local government and will result in the loss of 1,000 or more full-time Department of Defense and contractor employee positions over a 5-year period in the unit of general local government and the surrounding area, or

if the Secretary (in consultation with the Secretary of Defense) determines that an action described in subparagraph (A), (B), or (C), is likely to have a direct and significant adverse consequence on the unit of general local government; and

"(7) for the purposes of rebuilding and revitalizing distressed areas of the Los Angeles metropolitan area."

(3) REGULATIONS.—Not later than the expiration of the 60-day period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall issue proposed regulations to carry out section 107(b)(6) of the Housing and Community Development Act of 1974, as added by subsection (c)(2) of this section. The Secretary shall issue final regulations to carry out section 107(b)(6) not later than the expiration of the 120-day period beginning on the

date of the enactment of this Act and after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section). Such final regulations shall take effect 30 days after issuance.

(4) CONFORMING AMENDMENT.—Section 107(c) of the Housing and Community Development Act of 1974 (42 U.S.C. 5307(c)) is amended by striking “to the extent” and all that follows up to “grants to institutions” and inserting “make”.

(d) GRANT ACTIVITIES.—The special purpose grant of the City of Dubuque, Iowa, under Public Law 102-139 may be used for land acquisition, new construction, relocation assistance payments, and rehabilitation for housing of low- and moderate-income families.

#### SEC. 802. UNITS OF GENERAL LOCAL GOVERNMENT.

(a) DEFINITION.—Section 102(a)(1) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(1)) is amended by striking “recognized by the Secretary” and inserting the following: “that, except as provided in section 106(d)(4), is recognized by the Secretary”.

(b) GRANTS TO NONENTITLEMENT AREAS.—Section 106(d) of the Housing and Community Development Act of 1974 (42 U.S.C. 5306(d)) is amended by inserting after paragraph (3) the following new paragraph:

“(4) Any combination of units of general local governments may not be required to obtain recognition by the Secretary pursuant to section 102(a)(1) to be treated as a single unit of general local government for purposes of this subsection.”.

#### SEC. 803. URBAN COUNTIES.

Section 102(a)(6)(D) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(6)(D)) is amended—

- (1) in clause (iii), by striking “or” at the end;
- (2) in clause (iv), by striking the period at the end and inserting “; or”; and
- (3) by adding at the end the following new clause:

“(v)(I) has a population of 175,000 or more (including the population of metropolitan cities therein), (II) before January 1, 1975, was designated by the Secretary of Defense pursuant to section 608 of the Military Construction Authorization Act, 1975 (Public Law 93-552; 88 Stat. 1763), as a Trident Defense Impact Area, and (III) has located therein not less than 1 unit of general local government that was classified as a metropolitan city and (a) for which county each such unit of general local government therein has relinquished its classification as a metropolitan city under the 6th sentence of paragraph (4), or (b) that has entered into cooperative agreements with each metropolitan city therein to undertake or to assist in the undertaking of essential community development and housing assistance activities.”.

#### SEC. 804. RETENTION OF PROGRAM INCOME.

The first sentence of section 104(j) of the Housing and Community Development Act of 1974 (42 U.S.C. 5304(j)) is amended—

- (1) by striking “while the unit of general local government is participating in a community development program under this title”; and

(2) by inserting before the period at the end the following: “; except that the Secretary may, by regulation, exclude from consideration as program income any amounts determined to be so small that compliance with this subsection creates an unreasonable administrative burden on the unit of general local government”.

#### SEC. 805. ECONOMIC DEVELOPMENT.

(b) Section 105 of the Housing and Community Development Act of 1974 (42 U.S.C. 5305) is amended by adding at the end the following new subsection:

“(d) TRAINING PROGRAM.—The Secretary shall implement, using funds recaptured pursuant to section 119(o), an on-going education and training program for officers and employees of the Department, especially officers and employees of area and other field offices of the Department, who are responsible for monitoring and administering activities pursuant to paragraphs (14), (15), and (17) of subsection (a) for the purpose of ensuring that (A) such personnel possess a thorough understanding of such activities; and (B) regulations and guidelines are implemented in a consistent fashion.”.

#### SEC. 806. EVALUATION, SELECTION, AND REVIEW OF ECONOMIC DEVELOPMENT PROJECTS.

(a) GUIDELINES.—Section 105 of the Housing and Community Development Act of 1974 (42 U.S.C. 5305), as amended by section 805, is amended by adding at the end the following new subsection:

“(e) GUIDELINES FOR EVALUATING AND SELECTING ECONOMIC DEVELOPMENT PROJECTS.—

Regulations.

“(1) ESTABLISHMENT.—The Secretary shall establish, by regulation, guidelines to assist grant recipients under this title to evaluate and select activities described in section 105(a) (14), (15), and (17) for assistance with grant amounts. The Secretary shall not base a determination of eligibility of the use of funds under this title for such assistance solely on the basis that the recipient fails to achieve one or more of the guidelines’ objectives as stated in paragraph (2).

“(2) PROJECT COSTS AND FINANCIAL REQUIREMENTS.—The guidelines established under this subsection shall include the following objectives:

“(A) The project costs of such activities are reasonable.

“(B) To the extent practicable, reasonable financial support has been committed for such activities from non-Federal sources prior to disbursement of Federal funds.

“(C) To the extent practicable, any grant amounts to be provided for such activities do not substantially reduce the amount of non-Federal financial support for the activity.

“(D) Such activities are financially feasible.

“(E) To the extent practicable, such activities provide not more than a reasonable return on investment to the owner.

“(F) To the extent practicable, grant amounts used for the costs of such activities are disbursed on a pro rata basis with amounts from other sources.

“(3) PUBLIC BENEFIT.—The guidelines established under this subsection shall provide that the public benefit provided by the activity is appropriate relative to the amount of assistance provided with grant amounts under this title.”.

(b) ASSISTANCE TO FOR-PROFIT ENTITIES.—Section 105 of the Housing and Community Development Act of 1974 (42 U.S.C. 5305), as amended by subsection (a), is amended by inserting at the end the following new subsection:

“(f) ASSISTANCE TO FOR-PROFIT ENTITIES.—In any case in which an activity described in paragraph (17) of subsection (a) is provided assistance such assistance shall not be limited to activities for which no other forms of assistance are available or could not be accomplished but for that assistance.”

(c) GAO STUDY.—The Comptroller General of the United States shall conduct a study of the use of grant amounts under title I of the Housing and Community Development Act of 1974 for activities described in paragraphs (14), (15), and (17) of section 105(a) of such Act. The study shall evaluate whether the activities for which such amounts are being used under such paragraphs further the goals and objectives of such program, as established in section 101 of such Act. The Comptroller General shall submit a report to the Congress regarding the findings of the study not later than the expiration of the 18-month period beginning on the date of the enactment of this Act. The report shall include recommendations of—

42 USC 5305  
note.

Reports.

(1) any administrative or legislative actions that may be taken to ensure that such grant amounts are properly and efficiently used for economic development activities; and

(2) criteria by which to evaluate the effectiveness of activities assisted under paragraphs (14), (15), and (17) of such section 105(a).

(d) ENHANCING JOB QUALITY.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit to the Congress a report on the types and quality of jobs created or retained through assistance provided pursuant to title I of the Housing and Community Development Act of 1974 and the extent to which projects and activities assisted under that title enhance the upward mobility and future earning capacity of low- and moderate-income persons who are benefited by such projects and activities.

Reports.  
42 USC 5305  
note.

(e) REBUILDING DISTRESSED NEIGHBORHOODS.—Section 105(c) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(c)) is amended by adding at the end the following new paragraph:

“(4) For the purposes of subsection (c)(1)(C)—

“(A) if an employee resides in, or the assisted activity through which he or she is employed, is located in a census tract that meets the Federal enterprise zone eligibility criteria, the employee shall be presumed to be a person of low- or moderate-income; or

“(B) if an employee resides in a census tract where not less than 70 percent of the residents have incomes at or below 80 percent of the area median, the employee shall be presumed to be a person of low or moderate income.”

#### SEC. 807. ELIGIBLE ACTIVITIES.

(a) ADDITIONAL ELIGIBLE ACTIVITIES.—Section 105(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)) is amended—

(1) in paragraph (8), by inserting before the semicolon at the end the following: “, and except that of any amount

of assistance under this title (including program income) in each of fiscal years 1993 through 1997 to the City of Los Angeles and County of Los Angeles, each such unit of general government may use not more than 25 percent in each such fiscal year for activities under this paragraph”;

(2) in paragraph (19), by striking “and” at the end;

(3) by redesignating paragraph (20) as paragraph (25); and

(4) by inserting after paragraph (19) the following new paragraphs:

“(20) provision of technical assistance to public or nonprofit entities to increase the capacity of such entities to carry out eligible neighborhood revitalization or economic development activities, which assistance shall not be considered a planning cost as defined in paragraph (12) or administrative cost as defined in paragraph (13);

“(21) housing services, such as housing counseling, energy auditing, preparation of work specifications, loan processing, inspections, tenant selection, management of tenant-based rental assistance, and other services related to assisting owners, tenants, contractors, and other entities, participating or seeking to participate in housing activities authorized under this section, or under title II of the Cranston-Gonzalez National Affordable Housing Act, except that activities under this paragraph shall be subject to any limitation on administrative expenses imposed by any law;

“(22) provision of assistance by recipients under this title to institutions of higher education having a demonstrated capacity to carry out eligible activities under this subsection for carrying out such activities;

“(23) provision of assistance to public and private organizations, agencies, and other entities (including nonprofit and for-profit entities) to enable such entities to facilitate economic development by—

“(A) providing credit (including providing direct loans and loan guarantees, establishing revolving loan funds, and facilitating peer lending programs) for the establishment, stabilization, and expansion of microenterprises;

“(B) providing technical assistance, advice, and business support services (including assistance, advice, and support relating to developing business plans, securing funding, conducting marketing, and otherwise engaging in microenterprise activities) to owners of microenterprises and persons developing microenterprises; and

“(C) providing general support (such as peer support programs and counseling) to owners of microenterprises and persons developing microenterprises;

“(24) activities necessary to make essential repairs and to pay operating expenses necessary to maintain the habitability of housing units acquired through tax foreclosure proceedings in order to prevent abandonment and deterioration of such housing in primarily low- and moderate-income neighborhoods; and”.

(b) DIRECT HOMEOWNERSHIP ASSISTANCE.—Section 907(b)(2) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 5305 note) is amended—



(1) by striking "October 1, 1992" and inserting "October 1, 1994";

(2) by striking "October 1, 1993" and inserting "October 1, 1995"; and

(3) by striking "(18)", "(19)", and "(20)" and inserting "(23)", "(24)", and "(25)", respectively.

**(c) MICROENTERPRISE AND SMALL BUSINESS DEVELOPMENT INITIATIVE.—**

(1) **IN GENERAL.**—Section 105 of the Housing and Community Development Act of 1974 (42 U.S.C. 5305), as amended by section 806, is further amended by adding at the end the following new subsection:

**"(g) MICROENTERPRISE AND SMALL BUSINESS PROGRAM REQUIREMENTS.**—In developing program requirements and providing assistance pursuant to paragraph (17) of subsection (a) to a microenterprise or small business, the Secretary shall—

"(1) take into account the special needs and limitations arising from the size of the entity; and

"(2) not consider training, technical assistance, or other support services costs provided to small businesses or microenterprises or to grantees and subgrantees to develop the capacity to provide such assistance, as a planning cost pursuant to section 105(a)(12) or an administrative cost pursuant to section 105(a)(13)."

(2) **DEFINITIONS.**—Section 102(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)) is amended by adding at the end the following new paragraphs:

"(22) The term 'microenterprise' means a commercial enterprise that has 5 or fewer employees, 1 or more of whom owns the enterprise.

"(23) The term 'small business' means a business that meets the criteria set forth in section 3(a) of the Small Business Act."

(3) **SENSE OF THE CONGRESS.**—It is the sense of the Congress that each grantee under title I of the Housing and Community Development Act of 1974 should reserve 1 percent of any grant amounts the grantee receives in each fiscal year for the purpose of providing assistance under section 105(a)(23) of such Act to facilitate economic development through commercial microenterprises.

(4) **REPORT.**—Not later than 18 months after the date of enactment of this Act, the Secretary shall submit to the Congress a report on the effectiveness of assistance provided through title I of the Housing and Community Development Act of 1974 in promoting development of microenterprises, including a review of any statutory or regulatory provision that impedes the development of microenterprises.

(d) **LOANS OF CDBG FUNDS.**—Section 105(a)(14) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(14)) is amended by inserting before "activities" the following: "provision of assistance including loans (both interim and long-term) and grants for".

(e) **CDBG CODE ENFORCEMENT.**—Section 105(a)(3) of the Housing and Community Development Act of 1974 is amended by striking "improvements and" and inserting "or private improvements or".

42 USC 5305  
note.

(f) **NEIGHBORHOOD-BASED NONPROFIT ORGANIZATIONS.**—Section 105(a)(15) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(15)) is amended by inserting after “corporations,” the following: “nonprofit organizations serving the development needs of the communities in nonentitlement areas,”.

**SEC. 808. REFERENCE TO FAIR HOUSING ACT.**

Sections 104(b)(2), 106(d)(5)(B), and 107(e)(1) of the Housing and Community Development Act of 1974 (42 U.S.C. 5304(b)(2), 5306(d)(5)(B), and 5307(e)(1)) are each amended by striking “Public Law 88-352 and Public Law 90-284” and inserting “the Civil Rights Act of 1964 and the Fair Housing Act”.

**SEC. 809. ELIGIBILITY OF ENTERPRISE ZONES.**

Section 105(a)(13) of the Housing and Community Development Act of 1974 is amended by inserting immediately after “(13)” the following: “payment of reasonable administrative costs related to establishing and administering federally approved enterprise zones and”.

**SEC. 810. ASSISTANCE FOR COLONIAS.**

(a) **ELIGIBLE ACTIVITIES.**—Section 916 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 5306 note) is amended—

(1) by adding at the end of subsection (b) the following new paragraph:

“(3) **OTHER IMPROVEMENTS.**—Other activities eligible under section 105 of the Housing and Community Development Act of 1974 designed to meet the needs of residents of colonias.”; and

(2) in subsection (f), by striking “and 1993” and inserting “1993, and 1994”.

(b) **DEFINITION OF COLONIA.**—Section 916(e)(1) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 5306 note) is amended—

(1) by striking subparagraph (C);

(2) by redesignating subparagraph (D) as subparagraph (C); and

(3) by striking subparagraph (E) and inserting the following new subparagraph:

“(D) was in existence as a colonia before the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act.”.

**SEC. 811. STATE SET-ASIDE FOR TECHNICAL ASSISTANCE.**

Section 106(d) of the Housing and Community Development Act of 1974 (42 U.S.C. 5306(d)) is amended by inserting after paragraph (4), as added by section 802, the following:

“(5) From the amounts received under paragraph (1) for distribution in nonentitlement areas, the State may deduct an amount, not to exceed 1 percent of the amount so received, to provide technical assistance to local governments and nonprofit program recipients.”.

**SEC. 812. COMMUNITY DEVELOPMENT PLANS AND REPORTS.**

(a) **IN GENERAL.**—Subsection (l) of section 104 of the Housing and Community Development Act of 1974, as added by section 922 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 5304(l)), is amended to read as follows:

**“(m) COMMUNITY DEVELOPMENT PLANS.—**

**“(1) IN GENERAL.—**Prior to the receipt in any fiscal year of a grant from the Secretary under subsection (b), (d)(1), or (d)(2)(B) of section 106, each recipient shall have prepared and submitted in accordance with this subsection and in such standardized form as the Secretary shall, by regulation, prescribe a description of its priority nonhousing community development needs eligible for assistance under this title.

Regulations.

**“(2) LOCAL GOVERNMENTS.—**In the case of a recipient that is a unit of general local government—

**“(A) prior to the submission required by paragraph (1), the recipient shall, to the extent practicable, notify adjacent units of general local government and solicit the views of citizens on priority nonhousing community development needs; and**

**“(B) the description required under paragraph (1) shall be submitted to the Secretary, the State, and any other unit of general local government within which the recipient is located, in such standardized form as the Secretary shall, by regulation, prescribe.**

Regulations.

**“(3) STATES.—**In the case of a recipient that is a State, the description required by paragraph (1)—

**“(A) shall include only the needs within the State that affect more than one unit of general local government and involve activities typically funded by such States under this title; and**

**“(B) shall be submitted to the Secretary in such standard form as the Secretary, by regulation, shall prescribe.**

Regulations.

**“(4) EFFECT OF SUBMISSION.—**A submission under this subsection shall not be binding with respect to the use or distribution of amounts received under section 106.”.

**(b) CONFORMING AMENDMENTS.—**Section 104(b)(4) of the Housing and Community Development Act of 1974 (42 U.S.C. 5304(b)(4)) is amended—

(1) by inserting “pursuant to subsection (m)” before the first comma; and

(2) by striking “and housing”.

**SEC. 813. DELAY USE OF 1990 CENSUS HOUSING DATA TO EXAMINE EFFECT ON TARGETING FOR CDBG FORMULA.**

Notwithstanding any other provision of law, for fiscal year 1993, no data derived from the 1990 Decennial Census, except those relating to population and poverty, shall be taken into account for purposes of the allocation of amounts under section 106 of the Housing and Community Development Act of 1974.

## **Subtitle B—Other Community Development Programs**

**SEC. 831. NEIGHBORHOOD REINVESTMENT CORPORATION.**

**(a) AUTHORIZATION OF APPROPRIATIONS.—**The first sentence of section 608(a)(1) of the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8107(a)) is amended to read as follows: “There are authorized to be appropriated to the corporation to carry out this title \$29,476,000 for fiscal year 1993 and \$30,713,992 for fiscal year 1994.”.

(b) **EXPANDED PROGRAMS.**—The matter preceding subparagraph (A) of section 608(a)(2) of the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8107(a)(2)) is amended by striking “each of the fiscal years 1991 and 1992” and inserting “any fiscal year”.

**SEC. 832. NEIGHBORHOOD DEVELOPMENT PROGRAM.**

42 USC 5318a.

(a) **AUTHORIZATION.**—Section 123(g) of the Housing and Urban-Rural Recovery Act of 1983 (42 U.S.C. 5318 note) is amended to read as follows:

Appropriation  
authorization.

“(g) **AUTHORIZATION.**—Of the amounts made available for assistance under section 103 of the Housing and Community Development Act of 1974, \$1,000,000 for fiscal year 1993 (in addition to other amounts provided for such fiscal year) and \$3,000,000 for fiscal year 1994 shall be available to carry out this section.”.

42 USC 5318a.

(b) **PERMANENT PROGRAM.**—Section 123 of the Housing and Urban-Rural Recovery Act of 1983 (42 U.S.C. 5318 note) is amended—

(1) by striking the section heading and inserting the following new heading:

“JOHN HEINZ NEIGHBORHOOD DEVELOPMENT PROGRAM”;

(2) by striking “demonstration program” each place it appears and inserting “program”;

(3) in subsection (b)(1), by striking “determine the feasibility of supporting” and inserting “support”;

(4) in subsection (e)(3), by inserting after “year” the following: “, except that, if appropriations for this section exceed \$3,000,000, the Secretary may pay not more than \$75,000 to any participating neighborhood development organization”;

(5) in subsection (e)(6)—

(A) in subparagraph (C), by inserting “and” after the semicolon at the end;

(B) by striking subparagraph (D);

(C) by redesignating subparagraph (E) as subparagraph (D); and

(D) in subparagraph (D), as so redesignated, by striking “demonstration” and inserting “program”;

(6) by striking subsection (f) and inserting the following new subsection:

Reports.

“(f) The Secretary shall submit a report to the Congress, not later than 3 months after the end of each fiscal year in which payments are made under this section, regarding the program under this section. The report shall contain a summary of the activities carried out under this section during such fiscal year and any findings, conclusions, and recommendations for legislation regarding the program.”; and

(7) by adding at the end the following new subsection:

“(h) **SHORT TITLE.**—This section may be cited as the ‘John Heinz Neighborhood Development Act’.”.

John Heinz  
Neighborhood  
Development  
Act.

42 USC 5318a.

(c) **COMPLIANCE WITH CHAS AND COMMUNITY DEVELOPMENT PLANS.**—Section 123(e)(5)(A) of the Housing and Urban-Rural Recovery Act of 1983 (42 U.S.C. 5318 note) is amended by striking “housing and community development plans of such unit” and inserting “comprehensive housing affordability strategy of such unit approved under section 105 of the Cranston-Gonzalez National Affordable Housing Act or the statement of community development activities and community development plans of the unit submitted

under section 104(m) of the Housing and Community Development Act of 1974".

(d) **ELIGIBLE NEIGHBORHOOD DEVELOPMENT ORGANIZATION.**—Section 123(a)(2) of the Housing and Urban-Rural Recovery Act of 1983 (42 U.S.C. 5318 note) is amended—

42 USC 5318a.

- (1) in subparagraph (A), by inserting "(i)" after "(A)";
- (2) in subparagraph (E), by striking the period at the end and inserting "; or";
- (3) by redesignating subparagraphs (B) through (E) as clauses (ii) through (v), respectively; and
- (4) by adding at the end the following new subparagraph:  
"(B) any facility that provides small entrepreneurial business with affordable shared support services and business development services and meets the requirements of subparagraph (A)."

(e) **DEFINITIONS.**—Section 123(a) of the Housing and Urban-Rural Recovery Act of 1983 (42 U.S.C. 5318 note) is amended—

42 USC 5318a.

- (1) by striking subparagraph (2)(A)(iv) (as so redesignated by subsection (d) of this section) and inserting the following new clause:

"(iv) an organization that operates within an area that—

"(I) meets the requirements for Federal assistance under section 119 of the Housing and Community Development Act of 1974;

"(II) is designated as an enterprise zone under Federal law;

"(III) is designated as an enterprise zone under State law and recognized by the Secretary for purposes of this section as a State enterprise zone; or

"(IV) is a qualified distressed community within the meaning of section 233(b)(1) of the Bank Enterprise Act of 1991; and";

- (2) by redesignating paragraph (3) as paragraph (4); and
- (3) by inserting before paragraph (4) (as so redesignated) the following new paragraph:

"(3) The term 'neighborhood development funding organization' means—

"(A) a depository institution the accounts of which are insured pursuant to the Federal Deposit Insurance Act or the Federal Credit Union Act, and any subsidiary (as such term is defined in section 3(w) of the Federal Deposit Insurance Act) thereof;

"(B) a depository institution holding company and any subsidiary thereof (as such term is defined in section 3(w) of the Federal Deposit Insurance Act); or

"(C) a company at least 75 percent of the common stock of which is owned by one or more insured depository institutions or depository institution holding companies."

(f) **COORDINATION WITH COMMUNITY DEVELOPMENT FUNDING ORGANIZATIONS.**—Section 123 of the Housing and Urban-Rural Recovery Act of 1983 (42 U.S.C. 5318 note) is amended—

42 USC 5318a.

- (1) in subsection (b)(1), by inserting ", and from neighborhood development funding organizations," after "neighborhoods";

- (2) in subsection (b)(3)—

(A) in subparagraph (B), by striking "and" at the end;

(B) in subparagraph (C), by striking the period and inserting the following: “, especially in cooperation with a neighborhood development funding organization, except that an eligible neighborhood development organization shall be deemed to have the full benefit of the cooperation of a neighborhood development funding organization if the eligible neighborhood development organization—

“(i) is located in an area described in subsection (a)(2)(A)(iv) that does not contain a neighborhood development funding organization; or

“(ii) demonstrates to the satisfaction of the Secretary that it has been unable to obtain the cooperation of any neighborhood development funding organization in such area despite having made a good faith effort to obtain such cooperation; and”; and

(C) by adding at the end the following new subparagraph:

“(D) specify a strategy for increasing the capacity of the organization.”;

(3) in subsection (c)(3), by inserting before the semicolon the following: “and by the extent of participation in the proposed activities by a neighborhood development funding organization that has a branch or office in the neighborhood, except that an eligible neighborhood development organization shall be deemed to have the full benefit of the participation of a neighborhood development funding organization if the eligible neighborhood development organization—

“(A) is located in an neighborhood that does not contain a branch or office of a neighborhood development funding organization; or

“(B) demonstrates to the satisfaction of the Secretary that it has been unable to obtain the participation of any neighborhood development funding organization that has a branch or office in the neighborhood despite having made a good faith effort to obtain such participation”; and

(4) in subsection (e)(1), by inserting “, and from neighborhood development funding organizations,” after “neighborhood”.

42 USC 5318a.

(g) ADMINISTRATIVE CHANGES.—Section 123 of the Housing and Urban-Rural Recovery Act of 1983 (42 U.S.C. 5318 note) is amended—

(1) in subsection (a)(2)(A)(iii), as so redesignated by subsection (d) of this section, by striking “three years” and inserting “one year”; and

(2) in subsection (b)(2), by striking “Not more than 30 per centum” and inserting “For fiscal year 1993 and thereafter, not more than 50 percent”.

#### SEC. 833. STUDY REGARDING HOUSING TECHNOLOGY RESEARCH.

(a) STUDY.—The Secretary of Housing and Urban Development, through the Assistant Secretary for Policy Development and Research, shall conduct a study of—

(1) the extent of Federal, other public, and private basic research in the United States in housing technology, including design and construction techniques and methodology, smart building technology, area and neighborhood planning, and other areas relating to the preservation and production of affordable housing and livable communities;

(2) the extent of competitiveness of the United States in the field of basic housing technology research in comparison with other countries that are substantially involved in trade with the United States, taking into consideration the balance of trade, the degree of government support of private research activities, and the degree of fragmentation of research; and

(3) the types of research projects regarding basic housing technology conducted by such other countries, the results of such research, and the extent of success in applying and marketing such results.

(b) **REPORT.**—The Secretary of Housing and Urban Development shall submit a report to the Congress describing the results of the study conducted under this section not later than September 30, 1993.

#### **SEC. 834. DESIGNATION OF ENTERPRISE ZONES.**

(a) **IN GENERAL.**—Section 701 of the Housing and Community Development Act of 1987 (42 U.S.C. 11501) is amended—

(1) in subsection (a)(4)(B), by striking “the effective date of the regulations described in subparagraph (A) occurs” and inserting “the date of the enactment of the Housing and Community Development Act of 1992 occurs”; and

(2) in subsection (c)(3)(B), by striking “this Act” and inserting “the Housing and Community Development Act of 1992”.

(b) **REPORT.**—Section 702 of the Housing and Community Development Act of 1987 (42 U.S.C. 11502) is amended by inserting “pursuant to the amendments made by section 834 of the Housing and Community Development Act of 1992” before the first comma.

## **Subtitle C—Miscellaneous Programs**

#### **SEC. 851. COMMUNITY OUTREACH ACT.**

(a) **SHORT TITLE.**—This section may be cited as the “Community Outreach Partnership Act of 1992”.

(b) **PURPOSE.**—The Secretary shall carry out, in accordance with this section, a 5-year demonstration program to determine the feasibility of facilitating partnerships between institutions of higher education and communities to solve urban problems through research, outreach, and the exchange of information.

(c) **GRANT PROGRAM.**—

(1) **IN GENERAL.**—The Secretary is authorized to make grants to public and private nonprofit institutions of higher education to assist in establishing or carrying out research and outreach activities addressing the problems of urban areas.

(2) **USE OF GRANTS.**—Grants under this Act shall be used to establish and operate Community Outreach Partnership Centers (hereafter in this section referred to as “Centers”) which shall—

(A) conduct competent and qualified research and investigations on theoretical or practical problems in large and small cities; and

(B) facilitate partnerships and outreach activities between institutions of higher education, local communities, and local governments to address urban problems.

(3) **SPECIFIC PROBLEMS.**—Research and outreach activities assisted under this Act shall focus on problems associated with

Community  
Outreach  
Partnership Act  
of 1992.  
42 USC 5307  
note.

housing, economic development, neighborhood revitalization, infrastructure, health care, job training, education, crime prevention, planning, community organizing, and other areas deemed appropriate by the Secretary.

(d) APPLICATION.—Any public or private nonprofit institution of higher education may submit an application for a grant under this section in such form and containing such information as the Secretary may require by regulation.

(e) SELECTION CRITERIA.—

(1) IN GENERAL.—The Secretary shall select recipients of grants under this section on the basis of the following criteria:

(A) The demonstrated research and outreach resources available to the applicant for carrying out the purposes of this section.

(B) The capability of the applicant to provide leadership in solving community problems and in making national contributions to solving long-term and immediate urban problems.

(C) The demonstrated commitment of the applicant to supporting urban research and outreach programs by providing matching contributions for any Federal assistance received.

(D) The demonstrated ability of the applicant to disseminate results of research and successful strategies developed through outreach activities to other Centers and communities served through the demonstration program.

(E) The projects and activities that the applicant proposes to carry out under the grant.

(F) The effectiveness of the applicant's strategy to provide outreach activities to communities.

(G) The extent of need in the communities to be served by the Centers.

(H) Other criteria deemed appropriate by the Secretary.

(2) PREFERENCE.—The Secretary shall give preference to institutions of higher education that undertake research and outreach activities by bringing together knowledge and expertise in the various social science and technical disciplines that relate to urban problems.

(f) FEDERAL SHARES.—The Federal share of a grant under this section shall not be more than—

(1) 50 percent of the cost of establishing and operating a Center's research activities; and

(2) 75 percent of the cost of establishing and operating a Center's outreach activities.

(g) NON-FEDERAL SHARES.—The non-Federal share of a grant may include cash, or the value of non-cash contributions, equipment, or other in-kind contributions deemed appropriate by the Secretary.

(h) RESPONSIBILITIES.—A Center established under this section shall—

(1) employ the research and outreach resources of its sponsoring institution of higher education to solve specific urban problems identified by communities served by the Center;

(2) establish outreach activities in areas identified in the grant application as the communities to be served;

(3) establish a community advisory committee comprised of representatives of local institutions and residents of the



communities to be served to assist in identifying local needs and advise on the development and implementation of strategies to address those issues;

(4) coordinate outreach activities in communities to be served by the Center;

(5) facilitate public service projects in the communities served by the Center;

(6) act as a clearinghouse for the dissemination of information;

(7) develop instructional programs, convene conferences, and provide training for local community leaders, when appropriate; and

(8) exchange information with other Centers.

(i) NATIONAL ADVISORY COUNCIL.—

(1) ESTABLISHMENT.—The Secretary shall establish a national advisory council (hereafter in this section referred to as the “council”) to—

(A) disseminate the results of research and outreach activities carried out under this section;

(B) act as a clearinghouse between grant recipients and other institutions of higher education; and

(C) review and evaluate programs carried out by grant recipients.

(2) MEMBERS.—The council shall be composed of 12 members to be appointed by the Secretary as follows—

(A) 3 representatives of State and local governments;

(B) 3 representatives of institutions of higher education that receive grants under this section;

(C) 3 individuals or representatives of organizations that possess significant expertise in urban issues; and

(D) 3 representatives from community advisory committees created pursuant to this section.

(3) VACANCIES.—A vacancy in the membership of the council shall be filled in the manner in which the original appointment was made.

(4) COMPENSATION.—Members of the council shall serve without pay.

(5) CHAIRMAN.—The council shall elect a member to serve as chairperson of the council.

(6) MEETINGS.—The council shall meet at least biannually and at such other times as the chairman may designate.

(j) NATIONAL CLEARINGHOUSE.—The Secretary shall establish a national clearinghouse to disseminate information resulting from the research and successful outreach activities developed through the Centers to grant recipients and other interested institutions of higher education.

Establishment.

(k) AUTHORIZATIONS.—The sums set aside by section 107 of the Housing and Community Development Act of 1974 for the purpose of this section shall be available—

(1) to enable Centers to carry out research and outreach activities;

(2) to establish and operate the national clearinghouse to be established under subsection (j).

(l) REPORTING.—

(1) IN GENERAL.—The Secretary of Housing and Urban Development shall submit an annual report to the Committee on Banking, Housing, and Urban Affairs of the Senate and

the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

(2) **CONTENTS.**—The report under paragraph (1) shall contain a summary of the activities carried out under this section during the preceding fiscal year, and findings and conclusions drawn from such activities.

42 USC 5304  
note.

**SEC. 852. COMPUTERIZED DATABASE OF COMMUNITY DEVELOPMENT NEEDS.**

(a) **ESTABLISHMENT OF DEMONSTRATION PROGRAM.**—Not later than the expiration of the 1-year period beginning on the date appropriations for the purposes of this section are made available, the Secretary of Housing and Urban Development (hereafter in this section referred to as the “Secretary”) shall establish and implement a demonstration program to determine the feasibility of assisting States and units of general local government to develop methods, utilizing contemporary computer technology, to—

(1) monitor, inventory, and maintain current listings of the community development needs of the States and units of general local government; and

(2) coordinate strategies within States (especially among various units of general local government) for meeting such needs.

(b) **INTEGRATED DATABASE SYSTEM AND COMPUTER MAPPING TOOL.**—

(1) **DEVELOPMENT AND PURPOSES.**—In carrying out the program under this section, the Secretary shall provide for the development of an integrated database system and computer mapping tool designed to efficiently (A) collect, store, process, and retrieve information relating to priority nonhousing community development needs within States, and (B) coordinate strategies for meeting such needs. The integrated database system and computer mapping tool shall be designed in a manner to coordinate and facilitate the preparation of community development plans under section 104(m)(1) of the Housing and Community Development Act of 1974 and to process any information necessary for such plans.

(2) **AVAILABILITY TO STATES.**—The Secretary shall make the integrated database system and computer mapping tool developed pursuant to this subsection available to States without charge.

(3) **COORDINATION WITH EXISTING TECHNOLOGY.**—The Secretary shall, to the extent practicable, utilize existing technologies and coordinate such activities with existing data systems to prevent duplication.

(c) **TECHNICAL ASSISTANCE.**—Under the program under this section, the Secretary shall provide consultation and advice to States and units of general local government regarding the capabilities and advantages of the integrated database system and computer mapping tool developed pursuant to subsection (b) and assistance in installing and using the database system and mapping tool.

(d) **GRANTS.**—

(1) **AUTHORITY AND PURPOSE.**—The Secretary shall, to the extent amounts are made available under appropriation Acts pursuant to subsection (g), make grants to States for capital costs relating to installation and use of the integrated database

system and computer mapping tool developed pursuant to subsection (b).

(2) **LIMITATIONS.**—The Secretary may not make more than one grant under this subsection to any single State. The Secretary may not make a grant under this subsection to any single State in an amount exceeding \$1,000,000.

(3) **APPLICATION AND SELECTION.**—The Secretary shall provide for the form and manner of applications for grants under this subsection. The Secretary shall establish criteria for the selection of States which have submitted applications to receive grants under this section and shall select recipients according to such criteria, which shall give priority to States having, on a long-term basis (as determined by the Secretary), levels of unemployment above the national average level.

(e) **STATE COORDINATION OF LOCAL NEEDS.**—Each State that receives a grant under subsection (d) shall annually submit to the Secretary a report containing a summary of the priority nonhousing community development needs within the State.

(f) **REPORTS BY SECRETARY.**—The Secretary shall annually submit to the Committees on Banking, Finance and Urban Affairs of the House of Representatives and Banking, Housing, and Urban Affairs of the Senate, a report containing a summary of the information submitted for the year by States pursuant to subsection (e), which shall describe the priority nonhousing community development needs within such States.

(g) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated for each of the fiscal years 1993 and 1994, \$10,000,000 to carry out the program established under this section.

#### **SEC. 853. COMMUNITY INVESTMENT CORPORATION DEMONSTRATION.**

(a) **SHORT TITLE.**—This section may be cited as the “Community Investment Corporation Demonstration Act”.

(b) **COMMUNITY INVESTMENT CORPORATION DEMONSTRATION.**—

(1) **FINDINGS.**—The Congress finds that—

(A) the Nation’s urban and rural communities face critical social and economic problems arising from lack of growth; growing numbers of low-income persons and persons living in poverty; lack of employment and other opportunities to improve the quality of life of these residents; and lack of capital for business located in, or seeking to locate in these communities;

(B) the future well-being of the United States and its residents depends on the restoration and maintenance of viable local economies, and will require increased public and private investment in low-income housing, business development, and economic and community development activities, and technical assistance to local organizations carrying out revitalization strategies;

(C) lack of expertise and technical capacity can significantly limit the ability of residents and local institutions to effectively carry out revitalization strategies;

(D) the Federal Government needs to develop new models for facilitating local revitalization activities;

(E) indigenous community-based financial institutions play a significant role in identifying and responding to community needs; and

Community  
Investment  
Corporation  
Demonstration  
Act.  
42 USC 5305  
note.

(F) institutions, such as South Shore Bank (Chicago, Illinois), Southern Development Bancorporation (Arkadelphia, Arkansas), Center for Community Self Help (Durham, North Carolina), and Community Capital Bank (Brooklyn, New York), with a primary mission of promoting community development have proven their ability to promote revitalization and are appropriate models for restoring economic stability and growth in distressed communities and neighborhoods.

(2) PURPOSES.—The demonstration program carried out under this section shall—

(A) improve access to capital for initiatives which benefit residents and businesses in targeted geographic areas; and

(B) test new models for bringing credit and investment capital to targeted geographic areas and low-income persons in such areas through the provision of assistance for capital, development services, and technical assistance

(3) DEFINITIONS.—As used in this section—

(A) the term “Federal financial supervisory agency” means—

(i) the Comptroller of the Currency with respect to national banks;

(ii) the Board of Governors of the Federal Reserve System with respect to State-chartered banks which are members of the Federal Reserve System and bank holding companies;

(iii) the Federal Deposit Insurance Corporation with respect to State-chartered banks and savings banks which are not members of the Federal Reserve System and the deposits of which are insured by the Federal Deposit Insurance Corporation;

(iv) the National Credit Union Administration Board with respect to insured credit union associations; and

(v) the Office of Thrift Supervision with respect to insured savings associations and savings and loan holding companies that are not bank holding companies;

(B) the term “community investment corporation” means an eligible organization selected by the Secretary to receive assistance pursuant to this section;

(C) the term “development services” means activities that are consistent with the purposes of this section and which support and strengthen the lending and investment activities undertaken by eligible organizations including—

(i) the development of real estate;

(ii) administrative activities associated with the extension of credit or necessary to make an investment;

(iii) marketing and management assistance;

(iv) business planning and counseling services; and

(v) other capacity building activities which enable borrowers, prospective borrowers, or entities in which eligible organizations have invested, or expect to invest, to improve the likelihood of success of their activities;

(D) the term “eligible organization” means an entity—

(i) that is organized as—

(I) a depository institution holding company as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813); or

(II) a nonprofit organization—

(aa) that is organized under State law;

(bb) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or other person;

(cc) complies with standards of financial accountability acceptable to the Secretary; and

(dd) is affiliated with a nondepository lending institution; or is affiliated with a regulated financial institution but is not a subsidiary thereof;

(ii) that has as its primary mission the revitalization of a targeted geographic area;

(iii) that maintains, through significant representation on its governing board and otherwise, accountability to community residents;

(iv) that has principals active in the implementation of its programs who possess significant experience in lending and the development of affordable housing, small business development, or community revitalization;

(v) that directly or through a subsidiary or affiliate carries out development services; and

(vi) that will match any assistance received dollar-for-dollar with non-Federal sources of funds;

(E) the term “equity investment” means a capital contribution through the purchase of nonvoting common stock or through equity grants or contributions to capital reserves or surplus, subject to terms and conditions satisfactory to the Secretary;

(F) the term “low-income person” means a person in a family whose income does not exceed 80 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families;

(G) the term “regulated financial institution” means an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813), or an insured credit union as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752));

(H) the term “Secretary” means the Secretary of Housing and Urban Development;

(I) the term “targeted geographic area” means a geographically contiguous area of chronic economic distress, as measured by unemployment, growth lag, poverty, lag in growth of per capita income, extent of blight and disinvestment, fiscal distress, or other indicators deemed appropriate by the Secretary, that has been identified by an eligible organization as the area to be served by it; and

(J) an entity is an “affiliate” of another entity if the first entity controls, is controlled by, or is under common control with the other entity.

(4) **SELECTION CRITERIA.**—The Secretary shall select eligible organizations from among applications submitted to participate

in the demonstration program, using selection criteria based on—

(A) the capacity of the eligible organizations to carry out the purposes of this section;

(B) the range and comprehensiveness of lending, investment strategies, and development services to be offered by the organizations directly or through subsidiaries and affiliates thereof;

(C) the types of activities to be pursued, including lending and development of small business, agriculture, industrial, commercial, or residential projects;

(D) the extent of need in the targeted geographic area to be served;

(E) the experience and background of the principals at each eligible organization responsible for carrying out the purposes of this section;

(F) the extent to which the eligible organizations directly or through subsidiaries and affiliates has successfully implemented other revitalization activities;

(G) an appropriate distribution of eligible organizations among regions of the United States; and

(H) other criteria determined to be appropriate by the Secretary and consistent with the purposes of this section.

(5) PROGRAM ASSISTANCE.—The Secretary shall—

(A) carry out, in accordance with this section, a program to improve access to capital and demonstrate the feasibility of facilitating the revitalization of targeted geographic areas by providing assistance to eligible organizations;

(B) accept applications from eligible organizations; and

(C) select eligible organizations to receive assistance pursuant to this section.

(6) ACTIVITIES REQUIRED.—All eligible organizations receiving assistance pursuant to this section are required to engage in activities that provide access to capital for initiatives which benefit residents and businesses in targeted geographic areas.

(7) CAPITAL ASSISTANCE.—

(A) IN GENERAL.—

(i) IN GENERAL.—The Secretary shall make grants and loans to eligible organizations.

(ii) LOANS.—Assistance provided to a depository institution holding company that is an eligible organization as defined in paragraph (3)(D)(i)(I) shall be in the form of a loan to be repaid to the Secretary. The terms and conditions of each loan shall be determined by the Secretary based on the ability of such entity to repay, except that interest shall accrue at the current Treasury rate for obligations of comparable maturity.

(iii) GRANTS OR LOANS.—Assistance provided to an eligible organization that is a nonprofit organization, as defined in paragraph (3)(D)(i)(II), may be in the form of a grant or a loan. If an eligible organization that is a nonprofit organization uses assistance that it received under this section to provide assistance to a for-profit entity, the assistance provided by the nonprofit organization must be in the form of a loan

with interest to be repaid to the nonprofit organization and the nonprofit organization must use the proceeds of the loan for activities consistent with this section.

(B) **ELIGIBLE ACTIVITIES.**—Capital assistance may only be used to support the following activities that facilitate revitalization of targeted geographic areas or that provide economic opportunities for low-income persons—

(i) increasing the capital available for the purpose of making loans;

(ii) providing funds for equity investments in projects;

(iii) providing a portion of loan loss reserves of regulated financial institutions; and

(iv) providing credit enhancement.

(C) **CAPITAL REQUIREMENTS.**—Any investment derived from assistance provided by the Secretary and made by an eligible organization to a regulated financial institution shall not be included as an asset in calculating compliance with applicable capital standards. Such standards shall be satisfied from sources other than assistance provided under this section.

(D) **AUTHORIZATION.**—There are authorized to be appropriated to carry out this paragraph \$25,000,000 for fiscal year 1993 and \$26,000,000 for fiscal year 1994 to be used to provide capital assistance to eligible organizations. Funds appropriated pursuant to this subparagraph shall remain available until expended.

Appropriation  
authorization.

**(8) DEVELOPMENT SERVICES AND TECHNICAL ASSISTANCE GRANTS.**—

(A) **IN GENERAL.**—The Secretary shall—

(i) provide grants or loans to eligible organizations for the provision of development services that support and contribute to the success of the mission of such organizations; and

(ii) provide, or contract to provide, technical assistance to eligible organizations to assist in establishing program activities that are consistent with the purposes of this section.

(B) **AUTHORIZATION.**—There are authorized to be appropriated to carry out this paragraph, \$15,000,000 for fiscal year 1993 and \$15,600,000 for fiscal year 1994. Funds appropriated pursuant to this subparagraph shall remain available until expended.

Appropriation  
authorization.

**(9) TRAINING PROGRAM.**—

(A) **IN GENERAL.**—The Secretary shall establish, or contract to establish, an ongoing training program to assist eligible organizations and their staffs in developing the capacity to carry out the purposes of this section.

Establishment.

(B) **AUTHORIZATION.**—There are authorized to be appropriated to carry out this paragraph \$2,000,000 for fiscal year 1993 and \$2,100,000 for fiscal year 1994. Funds appropriated pursuant to this subparagraph shall remain available until expended.

Appropriation  
authorization.

(10) **REPORTS.**—The Secretary shall determine the appropriate reporting requirements with which eligible organizations receiving assistance under this section must comply.

**(11) ADVISORY BOARD.**—

(A) **IN GENERAL.**—In establishing requirements to carry out the provisions of this section, and in considering applications under this section, the Secretary shall consult with an advisory board comprised of the following members:

(i) the Administrator of the Small Business Administration;

(ii) two representatives from among the Federal financial supervisory agencies who possess expertise in matters related to extending credit to persons in low-income communities;

(iii) two representatives of organizations that possess expertise in development of low-income housing;

(iv) two representatives of organizations that possess expertise in economic development;

(v) two representatives of organizations that possess expertise in small business development;

(vi) two representatives from organizations that possess expertise in the needs of low-income communities; and

(vii) two representatives from community investment corporations receiving assistance under this section.

(B) **CHAIRPERSON.**—The Board shall elect from among its members a chairperson who shall serve for a term of 2 years.

(C) **TERMS.**—The members shall serve for terms of 3 years which shall expire on a staggered basis.

(D) **REIMBURSEMENT.**—The members shall serve without additional compensation but shall be reimbursed for travel, per diem, and other necessary expenses incurred in the performance of their duties as members of the advisory board, in accordance with sections 5702 and 5703 of title 5, United States Code.

(E) **DESIGNATED REPRESENTATIVES.**—A member who is necessarily absent from a meeting of the board, or of a committee of the board, may participate in such meeting through a duly designated representative who is serving in the same agency or organization as the absent member.

(F) **QUORUM.**—The presence of a majority of members, or their representatives, shall constitute a quorum.

(12) **EVALUATION AND REPORT.**—The Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives an annual report containing a summary of the activities carried out under this section during the fiscal year and any preliminary findings or conclusions drawn from the demonstration program.

(13) **NO BENEFIT RULE.**—To the extent that assistance is provided to an eligible organization that is a depository institution holding company, the Secretary shall ensure, to the extent practicable, that such assistance does not inure to the benefit of directors, officers, employees and stockholders.

(14) **REGULATIONS.**—(A) The Secretary shall issue such regulations as may be necessary to carry out the provisions of this subsection.

(B) The appropriate Federal financial supervisory agency, by regulation or order—



(i) may restrict any regulated financial institution's receipt of an extension of credit from, or investment by, an eligible organization;

(ii) may restrict the making, by a regulated financial institution or holding company, of an extension of credit to, or investment in, an eligible organization; and

(iii) shall prohibit any transaction that poses an undue risk to the affected deposit insurance fund.

(C) To the extent practicable, the Secretary and the Federal financial supervisory agencies shall coordinate the development of regulations and other program guidelines.

(15) **SAFETY AND SOUNDNESS OF INSURED DEPOSITORIES.**—Nothing in this section shall limit the applicability of other law relating to the safe and sound operation and management of a regulated financial institution (or a holding company) affiliated with an eligible organization or receiving assistance provided under this section.

(16) **EFFECTIVE DATE.**—This section shall become effective 6 months from the date of enactment of this Act.

#### **SEC. 854. EMERGENCY ASSISTANCE FOR LOS ANGELES.**

(a) **IN GENERAL.**—Of the funds made available under 107(b) of the Housing and Community Development Act of 1974 for purposes of this section, \$3,000,000 shall be made available to each of the following:

(1) A nonprofit community-based public benefit corporation which was created in response to the civil disturbances of April 29, 1992, through May 6, 1992, in Los Angeles, California, with the support of the Speaker of the California State Assembly and community elected officials representing the affected areas.

(2) A nonprofit public benefit corporation established by the Mayor of Los Angeles and the Governor of California.

(b) **USE OF FUNDS.**—Such funds shall be used to carry out a community revitalization strategy in areas for which the President, pursuant to title IV or V of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, declared that a major disaster or emergency existed for the purposes of such Act, as a result of the civil disturbances involving acts of violence occurring on or after April 29, 1992, and before May 6, 1992.

(c) **STRATEGY.**—Such strategy shall—

(1) include efforts to create jobs in distressed neighborhoods, spur community-based economic development, improve housing accessibility and affordability, and address other community development needs; and

(2) be developed in consultation with low-income residents and community leaders in the distressed areas.

(d) **ELIGIBLE ACTIVITIES.**—Funds made available under this subsection may be used for eligible activities pursuant to section 105 of the Housing and Community Development Act of 1974 or to provide seed capital to nonprofit community development corporations to carry out the strategy developed in subsection (c)(2).

(e) **MATCH REQUIRED.**—Funds provided under this section shall be matched with private or public non-Federal funds in an amount not less than 50 percent of the funds provided under this section.

# TITLE IX—REGULATORY AND MISCELLANEOUS PROGRAMS

## Subtitle A—Miscellaneous

Appropriation  
authorization.

### SEC. 901. HUD RESEARCH AND DEVELOPMENT.

Section 501 of the Housing and Urban Development Act of 1970 (12 U.S.C. 1701z-1) is amended by striking the second sentence and all that follows and inserting the following new sentence: "There is authorized to be appropriated to carry out this title \$35,000,000 for fiscal year 1993 and \$36,470,000 for fiscal year 1994."

### SEC. 902. ADMINISTRATION OF DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

#### (a) SPECIAL ASSISTANT FOR INDIAN AND ALASKA NATIVE PROGRAMS.—

(1) RESPONSIBILITIES.—Section 4(e)(1) of the Department of Housing and Urban Development Act (42 U.S.C. 3533(e)(1)) is amended—

(A) by inserting "(A)" after "(1)";

(B) in the first sentence, by striking "responsible" and all that follows through "development" and inserting "located in the Office of the Assistant Secretary for Public and Indian Housing"; and

(C) by adding at the end the following new subparagraphs:

"(B) The Special Assistant for Indian and Alaska Native Programs shall be appointed based solely on merit and shall be covered under the provisions of title 5, United States Code, governing appointments in the competitive service.

"(C) The Special Assistant for Indian and Alaska Native Programs shall be responsible for—

"(i) administering, in coordination with the relevant office in the Department, the provision of housing assistance to Indian tribes or Indian housing authorities under each program of the Department that provides for such assistance;

"(ii) administering the community development block grant program for Indian tribes under title I of the Housing and Community Development Act of 1974 and the provision of assistance to Indian tribes under such Act;

"(iii) directing, coordinating, and assisting in managing any regional offices of the Department that administer Indian programs to the extent of such programs; and

"(iv) coordinating all programs of the Department relating to Indian and Alaska Native housing and community development.

"(D) The Secretary shall include in the annual report under section 8 a description of the extent of the housing needs for Indian families and community development needs of Indian tribes in the United States and the activities of the Department, and extent of such activities, in meeting such needs."

(2) TRANSFER OF FUNCTIONS.—Not later than the expiration of the 180-day period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development

shall transfer to the Special Assistant for Indian and Alaska Native Programs any functions and duties described in section 4(e)(1)(B) of the Department of Housing and Urban Development Act (as added by paragraph (1) of this subsection).

(3) **STAFF.**—Not later than the expiration of the 1-year period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall transfer from offices within the Department of Housing and Urban Development to the office of the Special Assistant for Indian and Alaska Native Programs such staff, having experience and capacity to administer Indian housing and community development programs, as may be necessary and appropriate to assist the Special Assistant in carrying out the responsibilities under section 4(e)(1)(B) of the Department of Housing and Urban Development Act (as added by paragraph (1) of this subsection).

42 USC 3533  
note.

(b) **AVOIDANCE OF FORECLOSURE ON MORTGAGES HELD BY SECRETARY.**—Section 7(i) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(i)) is amended—

(1) in paragraph (5), by inserting before the semicolon the following: “; except that with respect to any mortgage held by the Secretary, the Secretary shall, subject to the availability of amounts provided in appropriation Acts, implement the authority under this paragraph to reduce the interest rate on the mortgage to a rate not less than the rate for recently issued marketable obligations of the Treasury having a comparable maturity if (and to the extent that) such a reduction, when taken together with other actions authorized under the National Housing Act, is necessary to avoid foreclosure on the mortgage; and except that for any mortgage for which the interest rate is reduced pursuant to an appropriation under the preceding clause, if the Secretary determines that the income or ability of the mortgagor to make interest payments has increased, the Secretary may (not more than once for each such mortgage) increase such interest rate to a rate not exceeding the prevailing market rate, as determined by the Secretary”; and

(2) in paragraph (6), by inserting before the period the following: “, including any provisions relating to the authority or requirements under paragraph (5)”.

(c) **PROGRAM MONITORING AND EVALUATION.**—The first sentence of section 7(r)(6) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(r)(6)) is amended to read as follows: “There are authorized to be appropriated to carry out this subsection such sums as may be necessary for fiscal year 1993 and fiscal year 1994.”.

Appropriation  
authorization.

#### **SEC. 903. PARTICIPANT'S CONSENT TO RELEASE OF INFORMATION.**

(a) **IN GENERAL.**—Section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (42 U.S.C. 3544) is amended by adding at the end the following new subsection:

“(e) **CONDITIONS OF RELEASE OF INFORMATION BY THIRD PARTIES.**—An applicant or participant under any program of the Department of Housing and Urban Development may not be required or requested to consent to the release of information by third parties as a condition of initial or continuing eligibility for participation in the program unless—

"(1) the request for consent is made, and the information secured is maintained, in accordance with this section, section 552a of title 5, United States Code; and

"(2) the consent that is requested is appropriately limited, with respect to time and information relevant and necessary to meet the requirements of this section."

42 USC 3544  
note.

(b) FORMS.—

(1) NEW FORM.—Not later than the expiration of the 180-day period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall develop a release form that meets the requirements of section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988, as amended by this section. In developing the form, the Secretary shall consult with interested parties, which shall include not less than 2 representatives of public housing agencies, 1 representative of a national tenant organization, 1 representative of a State tenant organization, and 1 representative of a legal group representing tenants.

(2) EFFECT OF OLD FORM.—During the period beginning upon the date of the enactment of this Act and ending upon implementation of the use of the form developed under paragraph (1), the benefits provided to an applicant or participant under any program of the Department of Housing and Urban Development, or eligibility for such benefits, may not be terminated, denied, suspended, or reduced because of any failure to sign any form authorizing the release of information from any third party (including Form HUD-9886), if the applicant or participant otherwise discloses all financial information relating to the application or recertification.

**SEC. 904. NATIONAL INSTITUTE OF BUILDING SCIENCES.**

(a) TECHNICAL CORRECTION TO HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974.—Section 809 of the Housing and Community Development Act of 1974 (12 U.S.C. 1701j-2) is amended—

(1) by redesignating subsections (h) and (i) as subsections (i) and (j), respectively; and

(2) by inserting after subsection (g) the material inserted by the amendment made by section 952(b)(2) of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101-625; 104 Stat. 4418).

12 USC 1748h-1.

(b) TECHNICAL CORRECTION TO NATIONAL HOUSING ACT.—Section 809 of the National Housing Act is amended by striking subsection (h) (as added by section 952(b) of the Cranston-Gonzalez National Affordable Housing Act).

Discrimination.

42 USC 3616a  
note.

**SEC. 905. FAIR HOUSING INITIATIVES PROGRAM.**

(a) FINDINGS.—The Congress finds that—

(1) in the past half decade, there have been major legislative and administrative changes in Federal fair housing and fair lending laws and substantial improvements in the Nation's understanding of discrimination in the housing markets;

(2) in response to evidence of continuing housing discrimination, the Congress passed the Fair Housing Act Amendments of 1988, to provide for more effective enforcement of fair housing rights through judicial and administrative avenues and to expand the number of protected classes covered under Federal fair housing laws;

(3) in the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Congress expanded the disclosure provisions under the Home Mortgage Disclosure Act to provide increased information on the mortgage lending patterns of financial institutions;

(4) in the Americans with Disabilities Act of 1990, the Congress provided a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities;

(5) in 1991, data collected under the Home Mortgage Disclosure Act disclosed evidence of pervasive discrimination in the Nation's mortgage lending markets;

(6) the Housing Discrimination Survey, released by the Department of Housing and Urban Development in 1991, found that Hispanic and African-American homeseekers experience some form of discrimination in at least half of their encounters with sales and rental agents;

(7) the Fair Housing Initiatives Program should be revised and expanded to reflect the significant changes in the fair housing and fair lending area that have taken place since the Program's initial authorization in the Housing and Community Development Act of 1987;

(8) continuing educational efforts by the real estate industry are a useful way to increase understanding by the public of their fair housing rights and responsibilities; and

(9) the proven efficacy of private nonprofit fair housing enforcement organizations and community-based efforts makes support for these organizations a necessary component of the fair housing enforcement system.

(b) IN GENERAL.—Section 561 of the Housing and Community Development Act of 1987 (42 U.S.C. 3616 note) is amended—

42 USC 3616a.

(1) by redesignating subsections (b) through (e) as subsections (e) through (h), respectively;

(2) by inserting after subsection (a) the following new subsections:

“(b) PRIVATE ENFORCEMENT INITIATIVES.—

“(1) IN GENERAL.—The Secretary shall use funds made available under this subsection to conduct, through contracts with private nonprofit fair housing enforcement organizations, investigations of violations of the rights granted under title VIII of the Civil Rights Act of 1968, and such enforcement activities as appropriate to remedy such violations. The Secretary may enter into multiyear contracts and take such other action as is appropriate to enhance the effectiveness of such investigations and enforcement activities.

“(2) ACTIVITIES.—The Secretary shall use funds made available under this subsection to conduct, through contracts with private nonprofit fair housing enforcement organizations, a range of investigative and enforcement activities designed to—

“(A) carry out testing and other investigative activities in accordance with subsection (b)(1), including building the capacity for housing investigative activities in unserved or underserved areas;

“(B) discover and remedy discrimination in the public and private real estate markets and real estate-related transactions, including, but not limited to, the making or purchasing of loans or the provision of other financial

assistance sales and rentals of housing and housing advertising;

"(C) carry out special projects, including the development of prototypes to respond to new or sophisticated forms of discrimination against persons protected under title VIII of the Civil Rights Act of 1968;

"(D) provide technical assistance to local fair housing organizations, and assist in the formation and development of new fair housing organizations; and

"(E) provide funds for the costs and expenses of litigation, including expert witness fees.

"(c) FUNDING OF FAIR HOUSING ORGANIZATIONS.—

Contracts.

"(1) IN GENERAL.—The Secretary shall use funds made available under this section to enter into contracts or cooperative agreements with qualified fair housing enforcement organizations, other private nonprofit fair housing enforcement organizations, and nonprofit groups organizing to build their capacity to provide fair housing enforcement, for the purpose of supporting the continued development or implementation of initiatives which enforce the rights granted under title VIII of the Civil Rights Act of 1968, as amended. Contracts or cooperative agreements may not provide more than 50 percent of the operating budget of the recipient organization for any one year.

"(2) CAPACITY ENHANCEMENT.—The Secretary shall use funds made available under this section to help establish, organize, and build the capacity of fair housing enforcement organizations, particularly in those areas of the country which are currently underserved by fair housing enforcement organizations as well as those areas where large concentrations of protected classes exist. For purposes of meeting the objectives of this paragraph, the Secretary may enter into contracts or cooperative agreements with qualified fair housing enforcement organizations. The Secretary shall establish annual goals which reflect the national need for private fair housing enforcement organizations.

"(d) EDUCATION AND OUTREACH.—

Contracts.

"(1) IN GENERAL.—The Secretary, through contracts with one or more qualified fair housing enforcement organizations, other fair housing enforcement organizations, and other nonprofit organizations representing groups of persons protected under title VIII of the Civil Rights Act of 1968, shall establish a national education and outreach program. The national program shall be designed to provide a centralized, coordinated effort for the development and dissemination of fair housing media products, including—

"(A) public service announcements, both audio and video;

"(B) television, radio and print advertisements;

"(C) posters; and

"(D) pamphlets and brochures.

The Secretary shall designate a portion of the amounts provided in subsection (g)(4) for a national program specifically for activities related to the annual national fair housing month. The Secretary shall encourage cooperation with real estate industry organizations in the national education and outreach program. The Secretary shall also encourage the dissemination of edu-

cational information and technical assistance to support compliance with the housing adaptability and accessibility guidelines contained in the Fair Housing Act Amendments of 1988.

"(2) **REGIONAL AND LOCAL PROGRAMS.**—The Secretary, through contracts with fair housing enforcement organizations, other nonprofit organizations representing groups of persons protected under title VIII of the Civil Rights Act of 1968, State and local agencies certified by the Secretary under section 810(f) of the Fair Housing Act, or other public or private entities that are formulating or carrying out programs to prevent or eliminate discriminatory housing practices, shall establish or support education and outreach programs at the regional and local levels.

Contracts.

"(3) **COMMUNITY-BASED PROGRAMS.**—The Secretary shall provide funding to fair housing organizations and other nonprofit organizations representing groups of persons protected under title VIII of the Civil Rights Act of 1968, or other public or private entities that are formulating or carrying out programs to prevent or eliminate discriminatory housing practices, to support community-based education and outreach activities, including school, church, and community presentations, conferences, and other educational activities.";

(3) in subsection (g), as redesignated by paragraph (1) by striking all in the first sentence after "section," and inserting the following: "\$21,000,000 for fiscal year 1993 and \$26,000,000 for fiscal year 1994, of which—

"(1) not less than \$3,820,000 for fiscal year 1993 and \$8,500,000 for fiscal year 1994 shall be for private enforcement initiatives authorized under subsection (b), divided equally between activities specified under subsection (b)(1) and those specified under subsection (b)(2);

"(2) not less than \$2,230,000 for fiscal year 1993 and \$8,500,000 for fiscal year 1994 shall be for qualified fair housing enforcement organizations authorized under subsection (c)(1);

"(3) not less than \$2,010,000 for fiscal year 1993 and \$4,000,000 for fiscal year 1994 shall be for the creation of new fair housing enforcement organizations authorized under subsection (c)(2); and

"(4) not less than \$2,540,000 for fiscal year 1993 and \$5,000,000 for fiscal year 1994 shall be for education and outreach programs authorized under subsection (d), to be divided equally between activities specified under subsection (d)(1) and those specified under subsections (d)(2) and (d)(3)."; and

(4) by striking subsection (h), as redesignated by paragraph (1), and inserting the following:

"(h) **QUALIFIED FAIR HOUSING ENFORCEMENT ORGANIZATION.**—

(1) The term 'qualified fair housing enforcement organization' means any organization that—

"(A) is organized as a private, tax-exempt, nonprofit, charitable organization;

"(B) has at least 2 years experience in complaint intake, complaint investigation, testing for fair housing violations and enforcement of meritorious claims; and

"(C) is engaged in all the activities listed in paragraph (1)(B) at the time of application for assistance under this section.

An organization which is not solely engaged in fair housing enforcement activities may qualify as a qualified fair housing enforcement organization, provided that the organization is actively engaged in each of the activities listed in subparagraph (B).

"(2) The term 'fair housing enforcement organization' means any organization that—

"(A) meets the requirements specified in paragraph (1)(A);

"(B) is currently engaged in the activities specified in paragraph (1)(B);

"(C) upon the receipt of funds under this section will become engaged in all of the activities specified in paragraph (1)(B); and

"(D) for purposes of funding under subsection (b), has at least 1 year of experience in the activities specified in paragraph (1)(B).

"(i) PROHIBITION ON USE OF FUNDS.—None of the funds authorized under this section may be used by the Secretary for purposes of settling claims, satisfying judgments or fulfilling court orders in any litigation action involving either the Department or housing providers funded by the Department. None of the funds authorized under this section may be used by the Department for administrative costs.

"(j) REPORTING REQUIREMENTS.—Not later than 180 days after the close of each fiscal year in which assistance under this section is furnished, the Secretary shall prepare and submit to the Congress a comprehensive report which shall contain—

"(1) a description of the progress made in accomplishing the objectives of this section;

"(2) a summary of all the private enforcement activities carried out under this section and the use of such funds during the preceding fiscal year;

"(3) a list of all fair housing enforcement organizations funded under this section during the preceding fiscal year, identified on a State-by-State basis;

"(4) a summary of all education and outreach activities funded under this section and the use of such funds during the preceding fiscal year; and

"(5) any findings, conclusions, or recommendations of the Secretary as a result of the funded activities."

#### SEC. 906. NATIONAL COMMISSION ON MANUFACTURED HOUSING.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 943(f) of the Cranston-Gonzalez National Affordable Housing Act is amended to read as follows:

"(f) AUTHORIZATION.—Of the amount appropriated pursuant to section 501 of the Housing and Urban Development Act of 1970 (12 U.S.C. 1701z-1), there shall be set aside to carry out this section \$1,000,000 for fiscal year 1993. Any amounts provided pursuant to this section shall remain available until expended."

(b) FUNCTIONS OF THE COMMISSION.—Section 943(d)(1) of the Cranston-Gonzalez National Affordable Housing Act is amended—

(1) in subparagraph (G), by striking "and" at the end;

(2) by adding after subparagraph (G) the following new subparagraphs:

"(H) evaluate the extent to which manufacturers in compliance with Federal standards do and should comply with State implied or expressed warranty requirements;



"(I) examine the feasibility of expanding and establishing standards governing manufactured home sales including transportation and on-site set up; and"; and

(3) by redesignating subparagraph (H) as subparagraph

(J).

(c) **EXTENSION OF TERMINATION DATE.**—Section 943(g) of the Cranston-Gonzalez National Affordable Housing Act is amended by striking "upon the expiration of the 9 months following the appointment of all the members under subsection (c)" and inserting "on October 1, 1993".

104 Stat. 4413.

(d) **STAFF.**—Section 943(e) of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101-625; 104 Stat. 44134) is amended by adding at the end the following new paragraph:

104 Stat. 4413.

"(7) **STAFF.**—

"(A) **EXECUTIVE DIRECTOR.**—The Commission shall appoint an executive director of the Commission who shall be compensated at a rate fixed by the Commission, but which may not exceed the rate established for level V of the Executive Schedule under title 5, United States Code.

"(B) **PERSONNEL.**—In addition to the executive director, the Commission may appoint and fix the compensation of such personnel as the Commission deems advisable, in accordance with the provisions of title 5, United States Code, governing appointments to the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

"(C) **LIMITATION.**—This paragraph shall be effective only to the extent amounts are made available in appropriation Acts."

#### **SEC. 907. MANUFACTURED HOUSING.**

Section 604 of the Housing and Community Development Act of 1974 (42 U.S.C. 5403) is amended by adding at the end the following new subsection:

"(j) The Secretary shall develop a new standard for hardboard panel siding on manufactured housing taking into account durability, longevity, consumer's costs for maintenance and any other relevant information pursuant to subsection (f). The Secretary shall consult with the National Manufactured Home Advisory Council and the National Commission on Manufactured Housing in establishing the new standard. The new performance standard developed shall ensure the durability of hardboard sidings for at least a normal life of a mortgage with minimum maintenance required. Not later than 180 days from the date of enactment of this subsection, the Secretary shall update the standards for hardboard siding."

#### **SEC. 908. REAL ESTATE SETTLEMENT PROCEDURES ACT OF 1974.**

(a) **APPLICABILITY TO MORTGAGE ORIGINATION.**—Section 3(3) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2602(3)) is amended by inserting after "broker," the following: "the origination of a federally related mortgage loan (including, but not limited to, the taking of loan applications, loan processing, and the underwriting and funding of loans),".

(b) **APPLICABILITY TO SECOND MORTGAGES AND REFINANCINGS.**—Section 3(1)(A) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2602(1)(A)) is amended—

(1) by inserting “or subordinate” after “first”; and

(2) by inserting before the semicolon the following: “, including any such secured loan, the proceeds of which are used to prepay or pay off an existing loan secured by the same property”.

12 USC 2602  
note.

(c) **REGULATIONS.**—The Secretary of Housing and Urban Development shall issue regulations to implement the amendments made by this section not later than the expiration of the 180-day period beginning on the date of the enactment of this Act. The regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section).

12 USC 2602  
note.

(d) **EFFECTIVE DATE.**—This section shall take effect on the date of enactment of this Act and shall not apply retroactively.

**SEC. 209. COMMUNITY REINVESTMENT ACT OF 1977.**

The Community Reinvestment Act of 1977 (12 U.S.C. 2901 et seq.) is amended—

12 USC 2903.

(1) in section 804—

(A) by inserting before the first sentence the following:

“(a) **IN GENERAL.**—”, and

(B) by adding at the end the following new subsection:

“(b) **MAJORITY-OWNED INSTITUTIONS.**—In assessing and taking into account, under subsection (a), the record of a nonminority-owned and nonwomen-owned financial institution, the appropriate Federal financial supervisory agency may consider as a factor capital investment, loan participation, and other ventures undertaken by the institution in cooperation with minority- and women-owned financial institutions and low-income credit unions provided that these activities help meet the credit needs of local communities in which such institutions and credit unions are chartered.”; and

12 USC 2907.

(2) in section 808(a), by striking “shall be treated as” and inserting “may be a factor in determining whether the depository institution is”.

12 USC 2901  
note.

**SEC. 910. REPORT ON COMMUNITY DEVELOPMENT LENDING.**

(a) **IN GENERAL.**—Not later than 12 months after the date of enactment of this section, the Board of Governors of the Federal Reserve System, in consultation with the Comptroller of the Currency, the Chairman of the Federal Deposit Insurance Corporation, the Director of the Office of Thrift Supervision, and the Chairman of the National Credit Union Administration, shall submit a report to the Congress comparing residential, small business, and commercial lending by insured depository institutions in low-income, minority, and distressed neighborhoods to such lending in other neighborhoods.

(b) **CONTENTS OF REPORT.**—The report required by subsection (a) shall—

(1) compare the risks and returns of lending in low-income, minority, and distressed neighborhoods with the risks and returns of lending in other neighborhoods;

(2) analyze the reasons for any differences in risk and return between low-income, minority, and distressed neighborhoods and other neighborhoods; and

(3) if the risks of lending in low-income, minority, and distressed neighborhoods exceed the risks of lending in other neighborhoods, recommend ways of mitigating those risks.

**SEC. 911. SUBSIDY LAYERING REVIEW.**

42 USC 3545  
note.

(a) **IN GENERAL.**—The Secretary shall establish guidelines for housing credit agencies, as defined under section 42 of the Internal Revenue Code of 1986, to implement the requirements of section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545(d)) for projects receiving assistance within the jurisdiction of the Department of Housing and Urban Development and under section 42 of the Internal Revenue Code of 1986.

(b) **IN PARTICULAR.**—The guidelines established pursuant to subsection (a) shall—

(1) require that the amount of equity capital contributed by investors to a project partnership is not less than the amount generally contributed by investors in current market conditions, as determined by the housing credit agency; and

(2) require that project costs, including developer fees, are within a reasonable range, taking into account project size, project characteristics, project location and project risk factors, as determined by the housing credit agency.

(c) **EFFECTIVE DATE.**—As of January 1, 1993, a housing credit agency shall carry out the responsibilities of section 102(d) of the Housing and Urban Development Reform Act for projects allocated a low-income housing tax credit pursuant to section 42 of the Internal Revenue Code of 1986 if such agency certifies to the Secretary that it is properly implementing the guidelines established under subsection (a). The Secretary may revoke the responsibility delegated in the preceding sentence if the Secretary determines that a housing credit agency has failed to properly implement such guidelines.

(d) **APPLICABILITY.**—Section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545(d)) shall apply only to projects for which an application for assistance or insurance was filed after the date of enactment of the Housing and Urban Development Reform Act.

**SEC. 912. SOLAR ASSISTANCE FINANCING ENTITY.**

42 USC 5511a.

(a) **ESTABLISHMENT.**—The Secretary of Housing and Urban Development shall establish within the Department of Housing and Urban Development the Solar Assistance Financing Entity (in this section referred to as the "Entity").

(b) **PURPOSE.**—The purpose of the Entity shall be to assist in financing solar and renewable energy capital investments and projects for eligible buildings under subsection (c).

(c) **ELIGIBLE BUILDINGS.**—The Entity may provide assistance under this section only for the following buildings:

(1) **SINGLE FAMILY HOUSING.**—Any building consisting of 1 to 4 dwelling units that has a system for heating or cooling, or both.

(2) **MULTIFAMILY HOUSING.**—Any building consisting of more than 4 dwelling units that has a system for heating or cooling, or both.

(3) **COMMERCIAL BUILDINGS.**—Any building used primarily to carry on a business (including any nonprofit business) that

is not used primarily for the manufacture or production of raw materials, products, or agricultural commodities.

(4) **SCHOOLS, HOSPITALS, AND AGRICULTURAL BUILDINGS.**—Any school, any hospital, and any building used exclusively in connection with the harvesting, storage, or drying of agricultural commodities.

(5) **OTHER BUILDINGS.**—Any other building of a type that the Entity considers appropriate.

(d) **FINANCING OPTIONS.**—Assistance provided under this section by the Entity may be provided only for programs for financing solar and renewable energy capital investments and projects, which may include programs for making loans, making grants, reducing the principal obligations of loans, prepayment of interest on loans, purchase and sale of loans and advances of credit, providing loan guarantees, providing loan downpayment assistance, and providing rebates and other incentives for the purchase and installation of solar and renewable energy measures.

(e) **AUTHORITY TO LEVERAGE OTHER FUNDS.**—The Entity may encourage or require programs receiving assistance under this section to supplement the assistance received under this section with amounts from other public and private sources, and, in making assistance under this section available, may give preference to programs that leverage amounts from such other sources.

(f) **PROVISION OF ASSISTANCE.**—The Entity shall provide assistance under this section through State agencies responsible for developing State energy conservation plans pursuant to section 362 of the Energy Policy and Conservation Act, or any other entity or agency authorized to specifically carry out the purposes of this section.

(g) **REGULATIONS.**—Not later than the expiration of the 12-month period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development, in consultation with the Secretary of Energy, shall issue any regulations necessary to carry out this section, which shall ensure maximum flexibility in utilizing amounts made available under this section.

(h) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this section \$10,000,000 for fiscal year 1993 and \$10,420,000 for fiscal year 1994. Such sums are to be available until expended.

(i) **REPEALS.**—

(1) **SOLAR ENERGY AND ENERGY CONSERVATION BANK ACT.**—Subtitle A of title V of the Energy Security Act (12 U.S.C. 3601 et seq.) is repealed.

(2) **FEDERAL NATIONAL MORTGAGE ASSOCIATION CHARTER ACT.**—Sections 315 and 316 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723g, 1723h) are repealed.

#### **SEC. 913. TECHNICAL AND CONFORMING AMENDMENTS RELATING TO LABOR WAGE RATES UNDER HOUSING PROGRAMS.**

(a) **SUPPORTIVE HOUSING FOR THE ELDERLY.**—Section 202(j)(5) of the Housing Act of 1959 (12 U.S.C. 1701q(j)(5)), as amended by section 801 of the Cranston-Gonzalez National Affordable Housing Act, is amended to read as follows:

“(5) **LABOR.**—

“(A) **IN GENERAL.**—The Secretary shall take such action as may be necessary to ensure that all laborers and mechanics employed by contractors and subcontractors in the construction

of housing with 12 or more units assisted under this section shall be paid wages at rates not less than the rates prevailing in the locality involved for the corresponding classes of laborers and mechanics employed on construction of a similar character, as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (commonly known as the Davis-Bacon Act).

“(B) EXEMPTION.—Subparagraph (A) shall not apply to any individual who—

“(i) performs services for which the individual volunteered;

“(ii)(I) does not receive compensation for such services; or

“(II) is paid expenses, reasonable benefits, or a nominal fee for such services; and

“(iii) is not otherwise employed at any time in the construction work.”.

(b) SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES.—Section 811(j)(6) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013(j)(6)) is amended—

(1) by striking “(6) LABOR STANDARDS.—The Secretary” and inserting the following:

“(6) LABOR STANDARDS.—

“(A) IN GENERAL.—The Secretary”;

(2) by striking “assisted under this section and designed for dwelling use by 12 or more persons with disabilities” and inserting “with 12 or more units assisted under this section”;

(3) by inserting “commonly known as” before “the Davis-Bacon Act”;

(4) by striking “; but the Secretary” and all that follows through “undertaking the construction”; and

(5) by adding at the end the following new subparagraph:

“(B) EXEMPTION.—Subparagraph (A) shall not apply to any individual who—

“(i) performs services for which the individual volunteered;

“(ii)(I) does not receive compensation for such services; or

“(II) is paid expenses, reasonable benefits, or a nominal fee for such services; and

“(iii) is not otherwise employed at any time in the construction work.”.

#### SEC. 914. ENERGY EFFICIENT MORTGAGES.

(a) DEFINITION OF ENERGY EFFICIENT MORTGAGE.—Section 104 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704), as amended by section 210(a)(1) of this Act, is further amended by adding at the end the following new paragraph:

“(25) The term ‘energy efficient mortgage’ means a mortgage that provides financing incentives for the purchase of energy efficient homes, or that provides financing incentives to make energy efficiency improvements in existing homes by incorporating the cost of such improvements in the mortgage.”.

(b) UNIFORM MORTGAGE FINANCING PLAN FOR ENERGY EFFICIENCY.—Section 946 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12712 note) is amended—

(1) in subsection (a), by striking "mortgage financing incentives for energy efficiency" and inserting "energy efficient mortgages (as such term is defined in section 104 of this Act)"; and

(2) in subsection (b)—

(A) in the second sentence, by inserting ", but not be limited to," after "include"; and

(B) by inserting after the period at the end of the following new sentence: "The Task Force shall determine whether notifying potential home purchasers of the availability of energy efficient mortgages would promote energy efficiency in residential buildings, and if so, the Task Force shall recommend appropriate notification guidelines, and agencies and organizations referred to in the preceding sentence are authorized to implement such guidelines."

**SEC. 915. ECONOMIC OPPORTUNITIES FOR LOW- AND VERY LOW-INCOME PERSONS.**

Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) is amended to read as follows:

**"SEC. 3. ECONOMIC OPPORTUNITIES FOR LOW- AND VERY LOW-INCOME PERSONS.**

**"(a) FINDINGS.—**The Congress finds that—

"(1) Federal housing and community development programs provide State and local governments and other recipients of Federal financial assistance with substantial funds for projects and activities that produce significant employment and other economic opportunities;

"(2) low- and very low-income persons, especially recipients of government assistance for housing, often have restricted access to employment and other economic opportunities;

"(3) the employment and other economic opportunities generated by projects and activities that receive Federal housing and community development assistance offer an effective means of empowering low- and very low-income persons, particularly persons who are recipients of government assistance for housing; and

"(4) prior Federal efforts to direct employment and other economic opportunities generated by Federal housing and community development programs to low- and very low-income persons have not been fully effective and should be intensified.

**"(b) POLICY.—**It is the policy of the Congress and the purpose of this section to ensure that the employment and other economic opportunities generated by Federal financial assistance for housing and community development programs shall, to the greatest extent feasible, be directed toward low- and very low-income persons, particularly those who are recipients of government assistance for housing.

**"(c) EMPLOYMENT.—**

**"(1) PUBLIC AND INDIAN HOUSING PROGRAM.—**

**"(A) IN GENERAL.—**The Secretary shall require that public and Indian housing agencies, and their contractors and subcontractors, make their best efforts, consistent with existing Federal, State, and local laws and regulations, to give to low- and very low-income persons the training and employment opportunities generated by development assistance provided pursuant to section 5 of the United

States Housing Act of 1937, operating assistance provided pursuant to section 9 of that Act, and modernization grants provided pursuant to section 14 of that Act.

“(B) PRIORITY.—The efforts required under subparagraph (A) shall be directed in the following order of priority:

“(i) To residents of the housing developments for which the assistance is expended.

“(ii) To residents of other developments managed by the public or Indian housing agency that is expending the assistance.

“(iii) To participants in Youthbuild programs receiving assistance under subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act.

“(iv) To other low- and very low-income persons residing within the metropolitan area (or nonmetropolitan county) in which the assistance is expended.

“(2) OTHER PROGRAMS.—

“(A) IN GENERAL.—In other programs that provide housing and community development assistance, the Secretary shall ensure that, to the greatest extent feasible, and consistent with existing Federal, State, and local laws and regulations, opportunities for training and employment arising in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to low- and very low-income persons residing within the metropolitan area (or nonmetropolitan county) in which the project is located.

“(B) PRIORITY.—Where feasible, priority should be given to low- and very low-income persons residing within the service area of the project or the neighborhood in which the project is located and to participants in Youthbuild programs receiving assistance under subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act.

“(d) CONTRACTING.—

“(1) PUBLIC AND INDIAN HOUSING PROGRAM.—

“(A) IN GENERAL.—The Secretary shall require that public and Indian housing agencies, and their contractors and subcontractors, make their best efforts, consistent with existing Federal, State, and local laws and regulations, to award contracts for work to be performed in connection with development assistance provided pursuant to section 5 of the United States Housing Act of 1937, operating assistance provided pursuant to section 9 of that Act, and modernization grants provided pursuant to section 14 of that Act, to business concerns that provide economic opportunities for low- and very low-income persons.

“(B) PRIORITY.—The efforts required under subparagraph (A) shall be directed in the following order of priority:

“(i) To business concerns that provide economic opportunities for residents of the housing development for which the assistance is provided.

“(ii) To business concerns that provide economic opportunities for residents of other housing develop-

ments operated by the public and Indian housing agency that is providing the assistance.

“(iii) To Youthbuild programs receiving assistance under subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act.

“(iv) To business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area (or nonmetropolitan county) in which the assistance is provided.

“(2) OTHER PROGRAMS.—

“(A) IN GENERAL.—In providing housing and community development assistance pursuant to other programs, the Secretary shall ensure that, to the greatest extent feasible, and consistent with existing Federal, State, and local laws and regulations, contracts awarded for work to be performed in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area (or nonmetropolitan county) in which the assistance is expended.

“(B) PRIORITY.—Where feasible, priority should be given to business concerns which provide economic opportunities for low- and very low-income persons residing within the service area of the project or the neighborhood in which the project is located and to Youthbuild programs receiving assistance under subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act.

“(e) DEFINITIONS.—For the purposes of this section the following definitions shall apply:

“(1) LOW- AND VERY LOW-INCOME PERSONS.—The terms ‘low-income persons’ and ‘very low-income persons’ have the same meanings given the terms ‘low-income families’ and ‘very low-income families’, respectively, in section 3(b)(2) of the United States Housing Act of 1937.

“(2) BUSINESS CONCERN THAT PROVIDES ECONOMIC OPPORTUNITIES.—The term ‘a business concern that provides economic opportunities’ means a business concern that—

“(A) provides economic opportunities for a class of persons that has a majority controlling interest in the business;

“(B) employs a substantial number of such persons; or

“(C) meets such other criteria as the Secretary may establish.

“(f) COORDINATION WITH OTHER FEDERAL AGENCIES.—The Secretary shall consult with the Secretary of Labor, the Secretary of Health and Human Services, the Secretary of Commerce, the Administrator of the Small Business Administration, and such other Federal agencies as the Secretary determines are necessary to carry out this section.

“(g) REGULATIONS.—Not later than 180 days after the date of enactment of the National Affordable Housing Act Amendments of 1992, the Secretary shall promulgate regulations to implement this section.”.



**SEC. 916. STUDY OF THE EFFECTIVENESS OF SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968.**12 USC 1701u  
note.

(a) **IN GENERAL.**—The Secretary of Housing and Urban Development shall submit to the Congress, not later than 1 year after the date of the enactment of this Act, a report describing—

Reports.

(1) the Secretary's efforts to enforce section 3 of the Housing and Urban Development Act of 1968;

(2) the barriers to full implementation of section 3 of the Housing and Urban Development Act of 1968;

(3) the anticipated costs and benefits of full implementation of section 3 of the Housing and Urban Development Act of 1968; and

(4) recommendations for legislative changes to enhance the effectiveness of section 3 of the Housing and Urban Development Act of 1968.

(b) **CONTENTS.**—

(1) **ENFORCEMENT.**—The description under subsection (a)(1) of the Secretary's enforcement efforts shall include, at a minimum—

(A) a discussion of how responsibility for implementing section 3 of the Housing and Urban Development Act of 1968 is allocated within the Department of Housing and Urban Development;

(B) a discussion of the status of existing regulations implementing such section 3;

(C) a discussion of ongoing efforts to enforce current regulations;

(D) a list of the programs under the responsibility of the Secretary with respect to which the Secretary is enforcing section 3; and

(E) a separate description of the activities carried out under section 3 with respect to each of these programs.

(2) **IMPEDIMENTS.**—The discussion under subsection (a)(2) of the external impediments to effective enforcement of section 3 of the Housing and Urban Development Act of 1968 shall include, at a minimum, a discussion of—

(A) any lack of necessary training for targeted employees and technical assistance to targeted businesses;

(B) any barriers created by Federal, State, or local procurement regulations or other laws;

(C) any difficulties in coordination with labor unions;

(D) any difficulties in coordination with other implicated Federal agencies; and

(E) any lack of resources on the part of recipients of assistance who are responsible for carrying out section 3 of the Housing and Urban Development Act of 1968.

(c) **CONSULTATION.**—In preparing the report under this subsection, the Secretary shall consult with the Secretary of Labor, the Secretary of Commerce, the Secretary of Health and Human Services, the Administrator of the Small Business Administration, other appropriate Federal officials, and recipients of Federal housing and community development assistance who are responsible for executing section 3 of the Housing and Urban Development Act of 1968.

Appropriation  
authorization.

**SEC. 917. INDIAN HOUSING AUTHORITIES.**

There is authorized to be appropriated \$500,000 for fiscal year 1993 and \$521,000 for fiscal year 1994 to a nonprofit organization under section 501(c)(3) of the Internal Revenue Code of 1986 that has been in existence since 1975 and that provides training, technical assistance, and information to Indian housing authorities, Indian tribal governments, and other groups. These sums shall be used by such nonprofit organization to—

- (1) provide technical assistance and training to Indian housing authorities;
- (2) improve the administrative capacities of Indian housing authorities; and
- (3) provide for other activities designed to improve Indian housing conditions.

**SEC. 918. STUDY REGARDING FORECLOSURE ALTERNATIVES.**

(a) **IN GENERAL.**—The Secretary of Housing and Urban Development shall conduct a study to review and analyze alternatives to foreclosure for homeowners whose principal residences are subject to federally-related mortgages (in connection with federally related mortgage loans, as such term is defined in section 3 of the Real Estate Settlement Procedures Act of 1974) under which the homeowner is in default. In conducting the study, the Secretary—

(1) may consult with any appropriate Federal agencies that make, insure, or guarantee mortgage loans relating to 1- to 4-family dwellings and with the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, and the Federal Agricultural Mortgage Corporation; and

(2) shall review and assess the adequacy, with respect to providing alternatives to foreclosure, of—

(A) the temporary mortgage assistance payments program authorized under section 230 of the National Housing Act;

(B) the authority of the Secretary to modify interest rates and other terms of mortgages transferred to the Secretary under section 7(i) of the Department of Housing and Urban Development Act; and

(C) any authority pursuant to Debt Collection Act of 1982 to reduce interest rates on outstanding debt to the borrowing rate for the Treasury of the United States.

The Secretary shall evaluate alternatives to foreclosure based on fairness of the procedures to the homeowner and reducing adverse effects on the mortgage lending system.

(b) **REPORT.**—Not later than March 1, 1993, the Secretary shall submit a report to the Congress regarding the results of the study conducted under subsection (a). The report shall contain a detailed description and assessment of each alternative to foreclosure analyzed under the study and a statement by the Secretary regarding the intent of the Secretary to use any authority available under the provisions referred to in subsection (a)(2) to avoid foreclosure under mortgages (and any reasons for not using such authority). The report may also contain any recommendations of the Secretary for administrative or legislative action to assist homeowners to avoid foreclosure and any loss of equity in their mortgaged homes that may result from foreclosure.

**SEC. 919. REGULATIONS CLARIFYING THE TERM "HOUSING FOR OLDER PERSONS".**42 USC 3607  
note.

The Secretary of Housing and Urban Development shall, not later than 180 days after the date of the enactment of this Act, make rules defining what are "significant facilities and services especially designed to meet the physical or social needs of older persons" required under section 807(b)(2) of the Fair Housing Act to meet the definition of the term "housing for older persons" in such section.

**SEC. 920. USE OF DOMESTIC PRODUCTS.**

42 USC 3546.

(a) **PROHIBITION AGAINST FRAUDULENT USE OF "MADE IN AMERICA" LABELS.**—A person shall not intentionally affix a label bearing the inscription of "Made in America", or any inscription with that meaning, to any product sold in or shipped to the United States, if that product is not a domestic product.

(b) **REPORT.**—The Secretary of Housing and Urban Development and the Secretary of Agriculture shall each submit, before January 1, 1994, a report to the Congress on procurements of products that are not domestic products.

(c) **DEFINITIONS.**—For the purposes of this section, the term "domestic product" means a product—

(1) that is manufactured or produced in the United States; and

(2) at least 50 percent of the cost of the articles, materials, or supplies of which are mined, produced, or manufactured in the United States.

**SEC. 921. IMPROVED COORDINATION OF URBAN POLICY.**

Title VII of the Housing and Urban Development Act of 1970 (42 U.S.C. 4501 et seq.) is amended—

(1) in section 702(d), by striking paragraph (8) and inserting the following:

42 USC 4502.

"(8) increase coordination among Federal programs that seek to promote job opportunities and skills, decent and affordable housing, public safety, access to health care, educational opportunities, and fiscal soundness for urban communities and their residents.";

(2) in section 703(a)—

42 USC 4503.

(A) by striking "during February 1978, and during February of every even-numbered year thereafter," and inserting "not later than June 1, 1993, and not later than the first day of June of every odd-numbered year thereafter,"; and

(B) in paragraph (8), by striking "such" and all that follows through the end of the sentence and inserting "legislative or administrative proposals—

"(A) to promote coordination among Federal programs to assist urban areas;

"(B) to enhance the fiscal capacity of fiscally distressed urban areas;

"(C) to promote job opportunities in economically distressed urban areas and to enhance the job skills of residents of such areas;

"(D) to generate decent and affordable housing;

"(E) to reduce racial tensions and to combat racial and ethnic violence in urban areas;

"(F) to combat urban drug abuse and drug-related crime and violence;

"(G) to promote the delivery of health care to low-income communities in urban areas;

"(H) to expand educational opportunities in urban areas; and

"(I) to achieve the goals of the national urban policy."; and

42 USC 4503.

(3) by adding at the end of section 703 the following new subsection:

"(d) REFERRAL.—The National Urban Policy Report shall, when transmitted to Congress, be referred in the Senate to the Committee on Banking, Housing, and Urban Affairs, and in the House of Representatives to the Committee on Banking, Finance and Urban Affairs."

#### **SEC. 922. PROHIBITION OF LUMP-SUM PAYMENTS.**

The Department of Housing and Urban Development Act (42 U.S.C. 3531 et seq.) is amended by adding at the end the following new section:

##### **"PROHIBITION OF LUMP-SUM PAYMENTS**

42 USC 3537c.

"SEC. 14. In providing relocation assistance in connection with any program administered by the Department of Housing and Urban Development, the Secretary may not make lump-sum payments to any displaced residential tenant, except where necessary to cover—

"(1) moving expenses;

"(2) a downpayment on the purchase of a replacement residence, including a condominium unit or membership in a cooperative housing association; or

"(3) any incidental expenses related to paragraph (1) or (2)."

42 USC 12714  
note.

#### **SEC. 923. ECONOMIC INDEPENDENCE.**

The Secretary of Housing and Urban Development should immediately implement section 957 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12714). Other Federal agencies authorized to assist low-income families should take similar steps to encourage economic independence and the accumulation of assets.

#### **SEC. 924. ADMINISTRATIVE PROVISION.**

Subject to the availability of appropriations for this purpose, the Secretary of Housing and Urban Development shall cancel the indebtedness of the town of McLain, Mississippi, relating to the public facilities loan (Project No. MS 94-PFL39456). The town of McLain, Mississippi, is relieved of all liability to the Government for the outstanding principal balance on such loan, for the amount of accrued interest on such loan, and for any other fees and charges payable in connection with such loan.

42 USC 3536.

#### **SEC. 925. PERFORMANCE GOALS.**

(a) PERFORMANCE GOALS FOR THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.—

(1) IN GENERAL.—The Secretary of the Department of Housing and Urban Development (hereafter in this Act referred to as the "Secretary") may establish performance goals for

the major programs of the Department of Housing and Urban Development in order to measure progress towards meeting the objectives of national housing policy.

(2) **FORM OF GOALS.**—The performance goals referred to in paragraph (1) shall be expressed in terms sufficient to measure progress.

(3) **REPORT.**—The Secretary shall include in the Secretary's annual report to the Congress a description of the progress made in attaining the performance goals for each program, citing the results achieved in each program for the previous year.

(4) **FAILURE TO MEET GOALS.**—If a performance standard or goal has not been met, the description under paragraph (3) shall include an explanation of why the goal was not met, propose plans for achieving the performance goal, and recommend any legislative or regulatory changes necessary for achievement of the goal.

**(b) PERFORMANCE GOALS FOR THE FARMERS HOME ADMINISTRATION.**—

42 USC 1471  
note.

(1) **IN GENERAL.**—The Secretary of Agriculture may establish performance goals for the major housing programs of the Farmers Home Administration in order to measure progress towards meeting the objectives of national housing policy.

(2) **FORM OF GOALS.**—The performance goals referred to in paragraph (1) shall be expressed in terms sufficient to measure progress.

(3) **REPORT.**—The Secretary of Agriculture shall prepare a report to the Congress on the progress made in attaining the performance goals for each program, citing the actual results achieved in such program for the previous year.

(4) **FAILURE TO MEET GOALS.**—If a performance standard or goal has not been met, the report under paragraph (3) shall include an explanation of why the goal was not met, propose plans for achieving the performance goal, and recommend any legislative or regulatory changes necessary for achievement of the goal.

**SEC. 926. REGULATION OF CONSULTANTS.**

Section 13(f)(1) of the Department of Housing and Urban Development Act (42 U.S.C. 3537b(f)(1)) is amended by striking "authority", "State", and "local government", and by adding immediately before the period at the end the following: ", but does not include a State or local government, or the officer or employee of a State or local government or housing finance agency thereof who is engaged in the official business of the State or local government".

**SEC. 927. CLARIFICATION ON UTILITY ALLOWANCES.**

42 USC 8624  
note.

(a) **ELIGIBILITY.**—Tenants who—

(1) are responsible for making out-of-pocket payments for utility bills; and

(2) receive energy assistance through utility allowances that include energy costs under programs identified in subsection (c);

shall not have their eligibility or benefits under other programs designed to assist low-income people with increases in energy costs since 1978 (including but not limited to the Low-Income Home Energy Assistance Program) reduced or eliminated.

(b) **EQUAL TREATMENT IN BENEFIT PROGRAMS.**—Tenants described in subsection (a) shall be treated identically with other households eligible for such assistance, including in the determination of the home energy costs for which they are individually responsible and in the determination of their incomes.

(c) **APPLICABILITY.**—This section applies to programs under the United States Housing Act of 1937, the National Housing Act, section 101 of the Housing and Urban Development Act of 1965, section 202 of the Housing Act of 1959, and title V of the Housing Act of 1949.

**SEC. 928. FLOOD CONTROL RESTORATION ZONE.**

42 USC 4014.

Section 1307 of the National Flood Insurance Act of 1968 is amended by adding at the end the following new subsection:

“(f) Notwithstanding any other provision of law, this subsection shall only apply in a community which has been determined by the Director of the Federal Emergency Management Agency to be in the process of restoring flood protection afforded by a flood protection system that had been previously accredited on a Flood Insurance Rate Map as providing 100-year frequency flood protection but no longer does so. Except as provided in this subsection, in such a community, flood insurance shall be made available to those properties impacted by the disaccreditation of the flood protection system at premium rates that do not exceed those which would be applicable to any property located in an area of special flood hazard, the construction of which was started prior to the effective date of the initial Flood Insurance Rate Map published by the Director for the community in which such property is located. A revised Flood Insurance Rate Map shall be prepared for the community to delineate as Zone AR the areas of special flood hazard that result from the disaccreditation of the flood protection system. A community will be considered to be in the process of restoration if—

“(1) the flood protection system has been deemed restorable by a Federal agency in consultation with the local project sponsor;

“(2) a minimum level of flood protection is still provided to the community by the discredited system; and

“(3) restoration of the flood protection system is scheduled to occur within a designated time period and in accordance with a progress plan negotiated between the community and the Federal Emergency Management Agency.

Communities that the Director of the Federal Emergency Management Agency determines to meet the criteria set forth in paragraphs (1) and (2) as of January 1, 1992, shall not be subject to revised Flood Insurance Rate Maps that contravene the intent of this subsection. Such communities shall remain eligible for C zone rates for properties located in zone AR for any policy written prior to promulgation of final regulations for this section. Floodplain management criteria for such communities shall not require the elevation of improvements to existing structures and shall not exceed 3 feet above existing grade for new construction, provided the base flood elevation based on the discredited flood control system does not exceed five feet above existing grade, or the remaining new construction in such communities is limited to infill sites, rehabilitation of existing structures, or redevelopment of previously developed areas.

The Director of the Federal Emergency Management Agency shall develop and promulgate regulations to implement this subsection, including minimum floodplain management criteria, within 24 months after the date of enactment of this subsection.”

Regulations.

**SEC. 929. SALARIES AND EXPENSES.**

Section 7 of the Department of Housing and Urban Development Act (42 U.S.C. 3535) is amended by inserting at the end the following new subsection:

“(s)(1) Notwithstanding any other provision of law, there is authorized to be appropriated for salaries and expenses to carry out the purposes of this section \$988,000,000 for fiscal year 1993 and \$1,029,496,000 for fiscal year 1994.

Appropriation authorization.

“(2) Of the amounts authorized to be appropriated by this section, \$96,000,000 shall be available for each of the fiscal years 1993 and 1994, which amounts shall be used to provide staff in regional, field, or zone offices of the Department of Housing and Urban Development to review, process, approve, and service applications for mortgage insurance under title II of the National Housing Act for housing consisting of 5 or more dwelling units.

“(3) Of the amounts authorized to be appropriated to carry out this section, not less than \$5,000,000 of such amount shall be available for each fiscal year exclusively for the purposes of providing ongoing training and capacity building for Department personnel.”.

**SEC. 930. THE NATIONAL CITIES IN SCHOOLS COMMUNITY DEVELOPMENT PROGRAM.**

(a) **PURPOSE.**—The purposes of this section are—

(1) to empower the local community by investing in its human capital through a private-public partnership to rebuild urban and rural communities through schools and other community organizations, including public housing communities; and

(2) to ensure that by December 1997, the Cities in Schools Program, through the National Center for Partnership Development, will have developed the capacity to reach 500,000 at-risk youth and their families through community-wide programs that channel existing community resources to provide personal, coordinated and accountable support.

(b) **GRANTS TO STRENGTHEN THE NATIONAL CITIES IN SCHOOLS PROGRAM.**—The Secretary of Housing and Urban Development shall make grants to expand the National Cities in Schools Program and operations of the National Center for Partnership Development to—

(1) develop, establish, and support projects to strengthen local community dropout prevention programs in elementary and secondary schools;

(2) train community leaders responsible for the implementation of local community Cities in Schools dropout prevention programs; and

(3) disseminate to, and support replication by, States and communities of effective dropout prevention strategies.

(c) **AUTHORIZATION.**—There are authorized to be appropriated to carry out this section \$10,000,000 for fiscal year 1993 and \$10,420,000 for fiscal year 1994.

Appropriation authorization.

**SEC. 931. BANK ENTERPRISE ACT OF 1991 AND RELATED PROVISIONS.**

(a) **ASSESSMENT RATE FOR LIFELINE ACCOUNT DEPOSITS.**—Section 7(b)(10) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(10)) (as added by section 232(b)(2) of the Bank Enterprise Act of 1991) is amended by striking “at the assessment rate of  $\frac{1}{2}$  the maximum rate.” and inserting “at an assessment rate to be determined by the Corporation by regulation. Such assessment rate may not be less than  $\frac{1}{2}$  the maximum assessment rate.”.

12 USC 1817.

(b) **ASSESSMENT PROCEDURE.**—Section 7(b)(2)(A)(iii)(I) of the Federal Deposit Insurance Act (12 U.S.C. 1917(b)(2)(A)(iii)(I)) (as added by section 232(b)(3)(C) of the Bank Enterprise Act of 1991) is amended to read as follows:

“(I) the assessment rate determined by the Corporation pursuant to paragraph (10) with respect to such semiannual period; and”.

12 USC 1834a.

(c) **QUALIFYING ACTIVITIES FOR ASSESSMENT CREDITS.**—Section 233(a)(2) of the Bank Enterprise Act of 1991 (12 U.S.C. 1934a(a)(2)) is amended to read as follows:

“(2) **QUALIFYING ACTIVITIES.**—An insured depository institution shall be eligible for any community enterprise assessment credit for any semiannual period for—

“(A) the amount, during such period, of new originations of qualified loans and other financial assistance provided for low- and moderate-income persons in distressed communities, or enterprises integrally involved with such neighborhoods, which the Board determines are qualified to be taken into account for purposes of this subsection; and

“(B) the amount, during such period, of deposits accepted from persons domiciled in the distressed community, at any office of the institution (including any branch) located in any qualified distressed community, and new originations of any loans and other financial assistance made within that community, except that in no case shall the credit for deposits at any institution or branch exceed the credit for loans and other financial assistance by the bank or branch in the distressed community.”.

12 USC 1834a.

(d) **AMOUNT OF ASSESSMENT CREDIT.**—Section 233(a)(3) of the Bank Enterprise Act of 1991 (12 U.S.C. 1934a(a)(3)) is amended to read as follows:

“(3) **AMOUNT OF ASSESSMENT CREDIT.**—The amount of any community enterprise assessment credit available under section 7(d)(4) of the Federal Deposit Insurance Act for any insured depository institution, or a qualified portion thereof, shall be the amount which is equal to 5 percent, in the case of an institution which does not meet the community development organization requirements under section 234, and 15 percent, in the case of an institution, or a qualified portion thereof, which meets such requirements (or any percentage designated under paragraph (5)) of—

“(A) for the first full semiannual period in which community enterprise assessment credits are available, the sum of—

“(i) the amounts of assets described in paragraph (2)(A); and

“(ii) the amounts of deposits, loans, and other financial assistance described in paragraph (2)(B); and



“(B) for any subsequent semiannual period, the sum of—

“(i) any increase during such period in the amount of assets described in paragraph (2)(A) that has been deemed eligible for credit by the Board; and

“(ii) any increase during such period in the amounts of deposits, loans, and other financial assistance described in paragraph (2)(B) that has been deemed eligible for credit by the Board.”

(e) **ELIGIBILITY REQUIREMENTS FOR QUALIFIED DISTRESSED COMMUNITIES.**—Section 233(b)(4) of the Bank Enterprise Act of 1991 (12 U.S.C. 1934a(b)(4)) is amended to read as follows:

12 USC 1834a.

“(4) **ELIGIBILITY REQUIREMENTS.**—For purposes of this subsection, an area meets the requirements of this paragraph if the following criteria are met:

“(A) At least 30 percent of the residents residing in the area have incomes which are less than the national poverty level.

“(B) The unemployment rate for the area is 1½ times greater than the national average (as determined by the Bureau of Labor Statistics’ most recent figures).

“(C) Such additional eligibility requirements as the Board may, in its discretion, deem necessary to carry out the provisions of this subtitle.”

**SEC. 932. DISCLOSURES UNDER THE HOME MORTGAGE DISCLOSURE ACT OF 1975.**

(a) **IN GENERAL.**—Section 304 of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803) is amended by adding at the end the following new subsections:

“(j) **LOAN APPLICATION REGISTER INFORMATION.**—

“(1) **IN GENERAL.**—In addition to the information required to be disclosed under subsections (a) and (b), any depository institution which is required to make disclosures under this section shall make available to the public, upon request, loan application register information (as defined by the Board by regulation) in the form required under regulations prescribed by the Board.

Regulations.

“(2) **FORMAT OF DISCLOSURE.**—

“(A) **UNEDITED FORMAT.**—Subject to subparagraph (B), the loan application register information described in paragraph (1) may be disclosed by a depository institution without editing or compilation and in the format in which such information is maintained by the institution.

“(B) **PROTECTION OF APPLICANT’S PRIVACY INTEREST.**—The Board shall require, by regulation, such deletions as the Board may determine to be appropriate to protect—

Regulations.

“(i) any privacy interest of any applicant, including the deletion of the applicant’s name and identification number, the date of the application, and the date of any determination by the institution with respect to such application; and

“(ii) a depository institution from liability under any Federal or State privacy law.

“(C) **CENSUS TRACT FORMAT ENCOURAGED.**—It is the sense of the Congress that a depository institution should provide loan register information under this section in a

format based on the census tract in which the property is located.

"(3) CHANGE OF FORM NOT REQUIRED.—A depository institution meets the disclosure requirement of paragraph (1) if the institution provides the information required under such paragraph in the form in which the institution maintains such information.

"(4) REASONABLE CHARGE FOR INFORMATION.—Any depository institution which provides information under this subsection may impose a reasonable fee for any cost incurred in reproducing such information.

"(5) TIME OF DISCLOSURE.—The disclosure of the loan application register information described in paragraph (1) for any year pursuant to a request under paragraph (1) shall be made—

"(A) in the case of a request made on or before March 1 of the succeeding year, before April 1 of the succeeding year; and

"(B) in the case of a request made after March 1 of the succeeding year, before the end of the 30-day period beginning on the date the request is made.

"(6) RETENTION OF INFORMATION.—Notwithstanding subsection (c), the loan application register information described in paragraph (1) for any year shall be maintained and made available, upon request, for 3 years after the close of the 1st year during which such information is required to be maintained and made available.

"(7) MINIMIZING COMPLIANCE COSTS.—In prescribing regulations under this subsection, the Board shall make every effort to minimize the costs incurred by a depository institution in complying with this subsection and such regulations.

"(k) DISCLOSURE OF STATEMENTS BY DEPOSITORY INSTITUTIONS.—

"(1) IN GENERAL.—In accordance with procedures established by the Board pursuant to this section, any depository institution required to make disclosures under this section—

"(A) shall make a disclosure statement available, upon request, to the public no later than 3 business days after the institution receives the statement from the Federal Financial Institutions Examination Council; and

"(B) may make such statement available on a floppy disc which may be used with a personal computer or in any other media which is not prohibited under regulations prescribed by the Board.

"(2) NOTICE THAT DATA IS SUBJECT TO CORRECTION AFTER FINAL REVIEW.—Any disclosure statement provided pursuant to paragraph (1) shall be accompanied by a clear and conspicuous notice that the statement is subject to final review and revision, if necessary.

"(3) REASONABLE CHARGE FOR INFORMATION.—Any depository institution which provides a disclosure statement pursuant to paragraph (1) may impose a reasonable fee for any cost incurred in providing or reproducing such statement.

"(l) PROMPT DISCLOSURES.—

"(1) IN GENERAL.—Any disclosure of information pursuant to this section or section 310 shall be made as promptly as possible.

**"(2) MAXIMUM DISCLOSURE PERIOD.—**

**"(A) 6- AND 9-MONTH MAXIMUM PERIODS.—**Except as provided in subsections (j)(5) and (k)(1) and regulations prescribed by the Board and subject to subparagraph (B), any information required to be disclosed for any year beginning after December 31, 1992, under—

**"(i)** this section shall be made available to the public before September 1 of the succeeding year; and

**"(ii)** section 310 shall be made available to the public before December 1 of the succeeding year.

**"(B) SHORTER PERIODS ENCOURAGED AFTER 1994.—**With respect to disclosures of information under this section or section 310 for any year beginning after December 31, 1993, every effort shall be made—

**"(i)** to make information disclosed under this section available to the public before July 1 of the succeeding year; and

**"(ii)** to make information required to be disclosed under section 310 available to the public before September 1 of the succeeding year.

**"(3) IMPROVED PROCEDURE.—**The Federal Financial Institutions Examination Council shall make such changes in the system established pursuant to subsection (f) as may be necessary to carry out the requirements of this subsection."

**(b) TECHNICAL AND CONFORMING AMENDMENT.—**Section 304(c) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803(c)) is amended by inserting ", other than loan application register information under subsection (j)," after "under this section".

**(c) EFFECTIVE DATE.—**The amendments made by subsections (a) and (b) shall apply with respect to information disclosed under section 304 of the Home Mortgage Disclosure Act of 1975 for any year which ends after the date of the enactment of this Act.

12 USC 2803  
note.

**SEC. 933. PROHIBITION ON USE OF "RULE OF 78's" IN CONNECTION WITH MORTGAGE REFINANCINGS AND OTHER CONSUMER LOANS.**

15 USC 1615.

**(a) PROMPT REFUND OF UNEARNED INTEREST REQUIRED.—**

**(1) IN GENERAL.—**If a consumer prepays in full the financed amount under any consumer credit transaction, the creditor shall promptly refund any unearned portion of the interest charge to the consumer.

**(2) EXCEPTION FOR REFUND OF DE MINIMUS AMOUNT.—**No refund shall be required under paragraph (1) with respect to the prepayment of any consumer credit transaction if the total amount of the refund would be less than \$1.

**(3) APPLICABILITY TO REFINANCED TRANSACTIONS AND ACCELERATION BY THE CREDITOR.—**This subsection shall apply with respect to any prepayment of a consumer credit transaction described in paragraph (1) without regard to the manner or the reason for the prepayment, including—

**(A)** any prepayment made in connection with the refinancing, consolidation, or restructuring of the transaction; and

**(B)** any prepayment made as a result of the acceleration of the obligation to repay the amount due with respect to the transaction.

(b) **USE OF "RULE OF 78'S" PROHIBITED.**—For the purpose of calculating any refund of interest required under subsection (a) for any precomputed consumer credit transaction of a term exceeding 61 months which is consummated after September 30, 1993, the creditor shall compute the refund based on a method which is at least as favorable to the consumer as the actuarial method.

(c) **STATEMENT OF PREPAYMENT AMOUNT.**—

(1) **IN GENERAL.**—Before the end of the 5-day period beginning on the date an oral or written request is received by a creditor from a consumer for the disclosure of the amount due on any precomputed consumer credit account, the creditor or assignee shall provide the consumer with a statement of—

(A) the amount necessary to prepay the account in full; and

(B) if the amount disclosed pursuant to subparagraph (A) includes an amount which is required to be refunded under this section with respect to such prepayment, the amount of such refund.

(2) **WRITTEN STATEMENT REQUIRED IF REQUEST IS IN WRITING.**—If the customer's request is in writing, the statement under paragraph (1) shall be in writing.

(3) **1 FREE ANNUAL STATEMENT.**—A consumer shall be entitled to obtain 1 statement under paragraph (1) each year without charge.

(4) **ADDITIONAL STATEMENTS SUBJECT TO REASONABLE FEES.**—Any creditor may impose a reasonable fee to cover the cost of providing any statement under paragraph (1) to any consumer in addition to the 1 free annual statement required under paragraph (3) if the amount of the charge for such additional statement is disclosed to the consumer before furnishing such statement.

(d) **DEFINITIONS.**—For the purpose of this section—

(1) **ACTUARIAL METHOD.**—The term "actuarial method" means the method of allocating payments made on a debt between the amount financed and the finance charge pursuant to which a payment is applied first to the accumulated finance charge and any remainder is subtracted from, or any deficiency is added to, the unpaid balance of the amount financed.

(2) **CONSUMER, CREDIT.**—The terms "consumer" and "creditor" have the meanings given to such terms in section 103 of the Consumer Credit Protection Act.

(3) **CREDITOR.**—The term "creditor"—

(A) has the meaning given to such term in section 103 of the Consumer Credit Protection Act; and

(B) includes any assignee of any creditor with respect to credit extended in connection with any consumer credit transaction and any subsequent assignee with respect to such credit.

## Subtitle B—Bank Regulatory Clarification Provisions

### SEC. 951. AMENDMENT RELATING TO ESTIMATES OF REAL ESTATE SETTLEMENT COSTS.

Section 5(d) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2604(d)) is amended by striking the last sentence

and inserting "Such booklet shall be provided by delivering it or placing it in the mail not later than 3 business days after the lender receives the application, but no booklet need be provided if the lender denies the application for credit before the end of the 3-day period."

**SEC. 952. ADJUSTABLE RATE MORTGAGE CAPS.**

Section 1204(d)(2) of the Competitive Equality Banking Act of 1987 (12 U.S.C. 3806(d)(2)) is amended by striking "any loan" and inserting "any consumer loan".

**SEC. 953. MODIFYING SEPARATE CAPITALIZATION RULE FOR SAVINGS ASSOCIATIONS' SUBSIDIARIES ENGAGED IN ACTIVITIES NOT PERMISSIBLE FOR NATIONAL BANKS.**

(a) **IN GENERAL.**—Section 5(t)(5)(D) of the Home Owners' Loan Act (12 U.S.C. 1464(t)(5)(D)) is amended by redesignating clause (iii) as clause (ix) and by inserting after clause (ii) the following new clauses:

"(iii) **AGENCY DISCRETION TO PRESCRIBE GREATER PERCENTAGE.**—Subject to clauses (iv), (v), and (vi), the Director may prescribe by order, with respect to a particular qualified savings association, an applicable percentage greater than that provided in clause (ii) if the Director determines, in the Director's sole discretion, that the use of the greater percentage, under the circumstances—

"(I) would not constitute an unsafe or unsound practice;

"(II) would not increase the risk to the affected deposit insurance fund; and

"(III) would not be likely to result in the association's being in an unsafe or unsound condition.

"(iv) **SUBSTANTIAL COMPLIANCE WITH APPROVED CAPITAL PLAN.**—In the case of a savings association which is subject to a plan submitted under paragraph (7)(D) of this subsection or an order issued under this subsection, a directive issued or plan approved under subsection (s), or a capital restoration plan approved or order issued under section 38 or 39 of the Federal Deposit Insurance Act, an order issued under clause (iii) with respect to the association shall be effective only so long as the association is in substantial compliance with such plan, directive, or order.

"(v) **LIMITATION ON INVESTMENTS TAKEN INTO ACCOUNT.**—In prescribing the amount by which an applicable percentage under clause (iii) may exceed the applicable percentage under clause (ii) with respect to a particular qualified savings association, the Director may take into account only the sum of—

"(I) the association's investments in, and extensions of credit to, the subsidiary that were made on or before April 12, 1989; and

"(II) the association's investments in, and extensions of credit to, the subsidiary that were made after April 12, 1989, and were necessary to complete projects initiated before April 12, 1989.

“(vi) **LIMIT.**—The applicable percentage limit allowed by the Director in an order under clause (iii) shall not exceed the following limits:

For the following period:	The limit is:
Prior to July 1, 1994 .....	75 percent
July 1, 1994 through June 30, 1995 .....	60 percent
July 1, 1995 through June 30, 1996 .....	40 percent
After June 30, 1996 .....	0 percent

“(vii) **CRITICALLY UNDERCAPITALIZED INSTITUTION.**—In the case of a savings association that becomes critically undercapitalized (as defined in section 38 of the Federal Deposit Insurance Act) as determined under this subparagraph without applying clause (iii), clauses (iii) through (v) shall be applied by substituting ‘Corporation’ for ‘Director’ each place such term appears.

“(viii) **QUALIFIED SAVINGS ASSOCIATION DEFINED.**—For purposes of clause (iii), the term ‘qualified savings association’ means an eligible savings association (as defined in paragraph (3)(B)) which is subject to this paragraph solely because of the real estate investments or other real estate activities of the association’s subsidiary, and—

“(I) is adequately capitalized (as defined in section 38 of the Federal Deposit Insurance Act); or

“(II) is in compliance with an approved capital restoration plan meeting the requirements of section 38 of the Federal Deposit Insurance Act, and is not critically undercapitalized (as defined in such section).”.

(b) **TECHNICAL AND CONFORMING AMENDMENT.**—Clause (ix) of section 5(t)(5)(D) of the Home Owners’ Loan Act (12 U.S.C. 1464(t)(5)(D)) (as so redesignated by subsection (a) of this section) is amended by inserting “or prescribed under clause (iii)” after “clause (ii)”.

#### **SEC. 954. REAL ESTATE APPRAISAL AMENDMENT.**

Section 1112 of the Financial Institution Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3341) is amended—

(1) by striking “Each Federal financial institutions” and inserting “(a) **IN GENERAL.**—Each Federal financial institutions”; and

(2) by adding at the end the following new subsections:

“(b) **THRESHOLD LEVEL.**—Each Federal financial institutions regulatory agency and the Resolution Trust Corporation may establish a threshold level at or below which a certified or licensed appraiser is not required to perform appraisals in connection with federally related transactions, if such agency determines in writing that such threshold level does not represent a threat to the safety and soundness of financial institutions.

“(c) **GAO STUDY OF APPRAISALS IN CONNECTION WITH REAL ESTATE RELATED FINANCIAL TRANSACTIONS BELOW THE THRESHOLD LEVEL.**—

“(1) **STUDY REQUIRED.**—At the end of the 18-month period, and the end of the 36-month period, beginning on the date of the enactment of this subsection, the Comptroller General

of the United States shall conduct a study on the adequacy and quality of appraisals or evaluations conducted in connection with real estate related financial transactions below the threshold level established under subsection (b), taking into account—

“(A) the cost to any financial institution involved in any such transaction;

“(B) the possibility of losses to the Bank Insurance Fund, the Savings Association Insurance Fund, or the National Credit Union Share Insurance Fund;

“(C) the cost to any customer involved in any such transaction; and

“(D) the effect on low-income housing.

“(2) **REPORTS TO CONGRESS AND THE APPROPRIATE FEDERAL FINANCIAL INSTITUTIONS REGULATORY AGENCIES.**—Upon completing each of the studies required under paragraph (1), the Comptroller General shall submit a report on the Comptroller General's findings and conclusions with respect to such study to the Federal financial institutions regulatory agencies, the Committee on Banking, Finance and Urban Affairs of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate, together with such recommendations for legislative or administrative action as the Comptroller General determines to be appropriate.”

#### **SEC. 955. INSIDER LENDING.**

(a) **AUTHORITY TO MAKE EXCEPTIONS TO DEFINITION OF EXTENSION OF CREDIT.**—Section 22(h)(9)(D) of the Federal Reserve Act (12 U.S.C. 375b(h)(9)(D)) is amended—

(1) by striking “(D) **EXTENSION OF CREDIT.**—A member bank” and inserting the following:

“(D) **EXTENSION OF CREDIT.**—

“(i) **IN GENERAL.**—A member bank”; and

(2) by adding at the end the following new clause:

“(ii) **EXCEPTIONS.**—The Board may, by regulation, make exceptions to clause (i) for transactions that the Board determines pose minimal risk.”

(b) **PRINCIPAL SHAREHOLDER DEFINED.**—Section 22(h)(9)(F) of the Federal Reserve Act (12 U.S.C. 375b(h)(9)(F)) is amended—

(1) by striking “shareholder” means any person” and inserting “shareholder”

“(i) means any person”;

(2) by striking the period at the end of clause (i) (as so redesignated by paragraph (1) of this subsection) and inserting “; and”; and

(3) by adding at the end the following new clause:

“(ii) does not include a company of which a member bank is a subsidiary.”

#### **SEC. 956. CLARIFICATION OF COMPENSATION STANDARDS.**

Section 39 of the Federal Deposit Insurance Act (as added by section 132(a) of Federal Deposit Insurance Corporation Improvement Act of 1991) (12 U.S.C. 1831s) is amended—

(1) by striking subsection (d) and inserting the following new subsection:

“(d) **STANDARDS TO BE PRESCRIBED BY REGULATION.**—

“(1) **IN GENERAL.**—Standards under subsections (a), (b), and (c) shall be prescribed by regulation. Such regulations may not prescribe standards that set a specific level or range

of compensation for directors, officers, or employees of insured depository institutions.

"(2) **APPLICABILITY OF OTHER LAWS.**—Paragraph (1) shall not affect the authority of any appropriate Federal banking agency to restrict the level of compensation, including golden parachute payments (as defined in section 18(k)(4)), paid to any director, officer, or employee of an insured depository institution under any other provision of law.

"(3) **SENIOR EXECUTIVE OFFICERS AT UNDERCAPITALIZED INSTITUTIONS.**—Paragraph (1) shall not affect the authority of any appropriate Federal banking agency to restrict compensation paid to any senior executive officer of an undercapitalized insured depository institution pursuant to section 38.

"(4) **SAFETY AND SOUNDNESS OR ENFORCEMENT ACTIONS.**—Paragraph (1) shall not be construed as affecting the authority of any appropriate Federal banking agency under any provision of this Act other than this section, or under any other provision of law, to prescribe a specific level or range of compensation for any director, officer, or employee of an insured depository institution—

"(A) to preserve the safety and soundness of the institution; or

"(B) in connection with any action under section 8 or any order issued by the agency, any agreement between the agency and the institution, or any condition imposed by the agency in connection with the agency's approval of an application or other request by the institution, which is enforceable under section 8."; and

(2) in subsection (e)(1)(A), by striking "(a), (b), or (c)" and inserting "(a) or (b)".

#### SEC. 957. TRUTH IN SAVINGS ACT AMENDMENTS.

(a) **ON-PREMISES DISPLAYS.**—Section 263 of the Truth in Savings Act (12 U.S.C. 4302) is amended—

(1) in subsection (a), by striking "subsection (b)" and inserting "subsections (b) and (c)";

(2) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(3) by inserting after subsection (b) the following new subsection:

"(c) **DISCLOSURE REQUIRED FOR ON-PREMISES DISPLAYS.**—

"(1) **IN GENERAL.**—The disclosure requirements contained in this section shall not apply to any sign (including a rate board) disclosing a rate or rates of interest which is displayed on the premises of the depository institution if such sign contains—

"(A) the accompanying annual percentage yield; and

"(B) a statement that the consumer should request further information from an employee of the depository institution concerning the fees and terms applicable to the advertised account.

"(2) **DEFINITION.**—For purposes of paragraph (1), a sign shall only be considered to be displayed on the premises of a depository institution if the sign is designed to be viewed only from the interior of the premises of the depository institution."



(b) **EFFECTIVE DATE OF REGULATIONS.**—Section 269(a)(2) of the Truth in Savings Act (12 U.S.C. 4308(a)(2)) is amended by striking “6 months” and inserting “9 months”.

## **TITLE X—RESIDENTIAL LEAD-BASED PAINT HAZARD REDUCTION ACT OF 1992**

Residential  
Lead-Based  
Paint Hazard  
Reduction Act of  
1992.

### **SEC. 1001. SHORT TITLE.**

This title may be cited as the “Residential Lead-Based Paint Hazard Reduction Act of 1992”.

42 USC 4851  
note.

### **SEC. 1002. FINDINGS.**

42 USC 4851.

The Congress finds that—

(1) low-level lead poisoning is widespread among American children, afflicting as many as 3,000,000 children under age 6, with minority and low-income communities disproportionately affected;

(2) at low levels, lead poisoning in children causes intelligence quotient deficiencies, reading and learning disabilities, impaired hearing, reduced attention span, hyperactivity, and behavior problems;

(3) pre-1980 American housing stock contains more than 3,000,000 tons of lead in the form of lead-based paint, with the vast majority of homes built before 1950 containing substantial amounts of lead-based paint;

(4) the ingestion of household dust containing lead from deteriorating or abraded lead-based paint is the most common cause of lead poisoning in children;

(5) the health and development of children living in as many as 3,800,000 American homes is endangered by chipping or peeling lead paint, or excessive amounts of lead-contaminated dust in their homes;

(6) the danger posed by lead-based paint hazards can be reduced by abating lead-based paint or by taking interim measures to prevent paint deterioration and limit children's exposure to lead dust and chips;

(7) despite the enactment of laws in the early 1970's requiring the Federal Government to eliminate as far as practicable lead-based paint hazards in federally owned, assisted, and insured housing, the Federal response to this national crisis remains severely limited; and

(8) the Federal Government must take a leadership role in building the infrastructure—including an informed public, State and local delivery systems, certified inspectors, contractors, and laboratories, trained workers, and available financing and insurance—necessary to ensure that the national goal of eliminating lead-based paint hazards in housing can be achieved as expeditiously as possible.

### **SEC. 1003. PURPOSES.**

42 USC 4851a.

The purposes of this Act are—

(1) to develop a national strategy to build the infrastructure necessary to eliminate lead-based paint hazards in all housing as expeditiously as possible;

(2) to reorient the national approach to the presence of lead-based paint in housing to implement, on a priority basis, a broad program to evaluate and reduce lead-based paint hazards in the Nation's housing stock;

(3) to encourage effective action to prevent childhood lead poisoning by establishing a workable framework for lead-based paint hazard evaluation and reduction and by ending the current confusion over reasonable standards of care;

(4) to ensure that the existence of lead-based paint hazards is taken into account in the development of Government housing policies and in the sale, rental, and renovation of homes and apartments;

(5) to mobilize national resources expeditiously, through a partnership among all levels of government and the private sector, to develop the most promising, cost-effective methods for evaluating and reducing lead-based paint hazards;

(6) to reduce the threat of childhood lead poisoning in housing owned, assisted, or transferred by the Federal Government; and

(7) to educate the public concerning the hazards and sources of lead-based paint poisoning and steps to reduce and eliminate such hazards.

42 USC 4851b.

#### SEC. 1004. DEFINITIONS.

For the purposes of this Act, the following definitions shall apply:

(1) **ABATEMENT.**—The term “abatement” means any set of measures designed to permanently eliminate lead-based paint hazards in accordance with standards established by appropriate Federal agencies. Such term includes—

(A) the removal of lead-based paint and lead-contaminated dust, the permanent containment or encapsulation of lead-based paint, the replacement of lead-painted surfaces or fixtures, and the removal or covering of lead contaminated soil; and

(B) all preparation, cleanup, disposal, and postabatement clearance testing activities associated with such measures.

(2) **ACCESSIBLE SURFACE.**—The term “accessible surface” means an interior or exterior surface painted with lead-based paint that is accessible for a young child to mouth or chew.

(3) **CERTIFIED CONTRACTOR.**—The term “certified contractor” means—

(A) a contractor, inspector, or supervisor who has completed a training program certified by the appropriate Federal agency and has met any other requirements for certification or licensure established by such agency or who has been certified by any State through a program which has been found by such Federal agency to be at least as rigorous as the Federal certification program; and

(B) workers or designers who have fully met training requirements established by the appropriate Federal agency.

(4) **CONTRACT FOR THE PURCHASE AND SALE OF RESIDENTIAL REAL PROPERTY.**—The term “contract for the purchase and sale of residential real property” means any contract or agreement in which one party agrees to purchase an interest in real

property on which there is situated 1 or more residential dwellings used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of 1 or more persons.

(5) **DETERIORATED PAINT.**—The term “deteriorated paint” means any interior or exterior paint that is peeling, chipping, chalking or cracking or any paint located on an interior or exterior surface or fixture that is damaged or deteriorated.

(6) **EVALUATION.**—The term “evaluation” means risk assessment, inspection, or risk assessment and inspection.

(7) **FEDERALLY ASSISTED HOUSING.**—The term “federally assisted housing” means residential dwellings receiving project-based assistance under programs including—

(A) section 221(d)(3) or 236 of the National Housing Act;

(B) section 1 of the Housing and Urban Development Act of 1965;

(C) section 8 of the United States Housing Act of 1937; or

(D) sections 502(a), 504, 514, 515, 516 and 533 of the Housing Act of 1949.

(8) **FEDERALLY OWNED HOUSING.**—The term “federally owned housing” means residential dwellings owned or managed by a Federal agency, or for which a Federal agency is a trustee or conservator. For the purpose of this paragraph, the term “Federal agency” includes the Department of Housing and Urban Development, the Farmers Home Administration, the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, the General Services Administration, the Department of Defense, the Department of Veterans Affairs, the Department of the Interior, the Department of Transportation, and any other Federal agency.

(9) **FEDERALLY SUPPORTED WORK.**—The term “federally supported work” means any lead hazard evaluation or reduction activities conducted in federally owned or assisted housing or funded in whole or in part through any financial assistance program of the Department of Housing and Urban Development, the Farmers Home Administration, or the Department of Veterans Affairs.

(10) **FRICTION SURFACE.**—The term “friction surface” means an interior or exterior surface that is subject to abrasion or friction, including certain window, floor, and stair surfaces.

(11) **IMPACT SURFACE.**—The term “impact surface” means an interior or exterior surface that is subject to damage by repeated impacts, for example, certain parts of door frames.

(12) **INSPECTION.**—The term “inspection” means a surface-by-surface investigation to determine the presence of lead-based paint as provided in section 302(c) of the Lead-Based Paint Poisoning Prevention Act and the provision of a report explaining the results of the investigation.

(13) **INTERIM CONTROLS.**—The term “interim controls” means a set of measures designed to reduce temporarily human exposure or likely exposure to lead-based paint hazards, including specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint hazards or potential hazards, and the establishment and operation of management and resident education programs.

(14) **LEAD-BASED PAINT.**—The term “lead-based paint” means paint or other surface coatings that contain lead in excess of limits established under section 302(c) of the Lead-Based Paint Poisoning Prevention Act.

(15) **LEAD-BASED PAINT HAZARD.**—The term “lead-based paint hazard” means any condition that causes exposure to lead from lead-contaminated dust, lead-contaminated soil, lead-contaminated paint that is deteriorated or present in accessible surfaces, friction surfaces, or impact surfaces that would result in adverse human health effects as established by the appropriate Federal agency.

(16) **LEAD-CONTAMINATED DUST.**—The term “lead-contaminated dust” means surface dust in residential dwellings that contains an area or mass concentration of lead in excess of levels determined by the appropriate Federal agency to pose a threat of adverse health effects in pregnant women or young children.

(17) **LEAD-CONTAMINATED SOIL.**—The term “lead-contaminated soil” means bare soil on residential real property that contains lead at or in excess of the levels determined to be hazardous to human health by the appropriate Federal agency.

(18) **MORTGAGE LOAN.**—The term “mortgage loan” includes any loan (other than temporary financing such as a construction loan) that—

(A) is secured by a first lien on any interest in residential real property; and

(B) either—

(i) is insured, guaranteed, made, or assisted by the Department of Housing and Urban Development, the Department of Veterans Affairs, or the Farmers Home Administration, or by any other agency of the Federal Government; or

(ii) is intended to be sold by each originating mortgage institution to any federally chartered secondary mortgage market institution.

(19) **ORIGINATING MORTGAGE INSTITUTION.**—The term “originating mortgage institution” means a lender that provides mortgage loans.

(20) **PRIORITY HOUSING.**—The term “priority housing” means target housing that qualifies as affordable housing under section 215 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12745), including housing that receives assistance under subsection (b) or (c) of section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f(b) or (c)).

(21) **PUBLIC HOUSING.**—The term “public housing” has the same meaning given the term in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(1)).

(22) **REDUCTION.**—The term “reduction” means measures designed to reduce or eliminate human exposure to lead-based paint hazards through methods including interim controls and abatement.

(23) **RESIDENTIAL DWELLING.**—The term “residential dwelling” means—

(A) a single-family dwelling, including attached structures such as porches and stoops; or

(B) a single-family dwelling unit in a structure that contains more than 1 separate residential dwelling unit,

and in which each such unit is used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of 1 or more persons.

(24) **RESIDENTIAL REAL PROPERTY.**—The term “residential real property” means real property on which there is situated 1 or more residential dwellings used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of 1 or more persons.

(25) **RISK ASSESSMENT.**—The term “risk assessment” means an on-site investigation to determine and report the existence, nature, severity and location of lead-based paint hazards in residential dwellings, including—

(A) information gathering regarding the age and history of the housing and occupancy by children under age 6;

(B) visual inspection;

(C) limited wipe sampling or other environmental sampling techniques;

(D) other activity as may be appropriate; and

(E) provision of a report explaining the results of the investigation.

(26) **SECRETARY.**—The term “Secretary” means the Secretary of Housing and Urban Development.

(27) **TARGET HOUSING.**—The term “target housing” means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any child who is less than 6 years of age resides or is expected to reside in such housing for the elderly or persons with disabilities) or any 0-bedroom dwelling. In the case of jurisdictions which banned the sale or use of lead-based paint prior to 1978, the Secretary, at the Secretary’s discretion, may designate an earlier date.

## **Subtitle A—Lead-Based Paint Hazard Reduction**

### **SEC. 1011. GRANTS FOR LEAD-BASED PAINT HAZARD REDUCTION IN TARGET HOUSING.** 42 USC 4852.

(a) **GENERAL AUTHORITY.**—The Secretary is authorized to provide grants to eligible applicants to evaluate and reduce lead-based paint hazards in priority housing that is not federally assisted housing, federally owned housing, or public housing, in accordance with the provisions of this section.

(b) **ELIGIBLE APPLICANTS.**—A State or unit of local government that has an approved comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705) is eligible to apply for a grant under this section.

(c) **FORM OF APPLICATIONS.**—To receive a grant under this section, a State or unit of local government shall submit an application in such form and in such manner as the Secretary shall prescribe. An application shall contain—

(1) a copy of that portion of an applicant’s comprehensive housing affordability strategy required by section 105(b)(16) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12701 et seq.);

(2) a description of the amount of assistance the applicant seeks under this section;

(3) a description of the planned activities to be undertaken with grants under this section, including an estimate of the amount to be allocated to each activity;

(4) a description of the forms of financial assistance to owners and occupants of priority housing that will be provided through grants under this section; and

(5) such assurances as the Secretary may require regarding the applicant's capacity to carry out the activities.

(d) **SELECTION CRITERIA.**—The Secretary shall award grants under this section on the basis of the merit of the activities proposed to be carried out and on the basis of selection criteria, which shall include—

(1) the extent to which the proposed activities will reduce the risk of lead-based paint poisoning to children under the age of 6 who reside in priority housing;

(2) the degree of severity and extent of lead-based paint hazards in the jurisdiction to be served;

(3) the ability of the applicant to leverage State, local, and private funds to supplement the grant under this section;

(4) the ability of the applicant to carry out the proposed activities; and

(5) such other factors as the Secretary determines appropriate to ensure that grants made available under this section are used effectively and to promote the purposes of this Act.

(e) **ELIGIBLE ACTIVITIES.**—A grant under this section may be used to—

(1) perform risk assessments and inspections in priority housing;

(2) provide for the interim control of lead-based paint hazards in priority housing;

(3) provide for the abatement of lead-based paint hazards in priority housing;

(4) provide for the additional cost of reducing lead-based paint hazards in units undergoing renovation funded by other sources;

(5) ensure that risk assessments, inspections, and abatements are carried out by certified contractors in accordance with section 402 of the Toxic Substances Control Act, as added by section 1021 of this Act;

(6) monitor the blood-lead levels of workers involved in lead hazard reduction activities funded under this section;

(7) assist in the temporary relocation of families forced to vacate priority housing while lead hazard reduction measures are being conducted;

(8) educate the public on the nature and causes of lead poisoning and measures to reduce exposure to lead, including exposure due to residential lead-based paint hazards;

(9) test soil, interior surface dust, and the blood-lead levels of children under the age of 6 residing in priority housing after lead-based paint hazard reduction activity has been conducted, to assure that such activity does not cause excessive exposures to lead; and

(10) carry out such other activities that the Secretary determines appropriate to promote the purposes of this Act.

(f) **FORMS OF ASSISTANCE.**—The applicant may provide the services described in this section through a variety of programs, including grants, loans, equity investments, revolving loan funds, loan funds, loan guarantees, interest write-downs, and other forms of assistance approved by the Secretary.

(g) **TECHNICAL ASSISTANCE AND CAPACITY BUILDING.**—

(1) **IN GENERAL.**—The Secretary shall develop the capacity of eligible applicants to carry out the requirements of section 105(b)(16) of the Cranston-Gonzalez National Affordable Housing Act and to carry out activities under this section. In fiscal years 1993 and 1994, the Secretary may make grants of up to \$200,000 for the purpose of establishing State training, certification or accreditation programs that meet the requirements of section 402 of the Toxic Substances Control Act, as added by section 1021 of this Act.

(2) **SET-ASIDE.**—Of the total amount approved in appropriation Acts under subsection (o), there shall be set aside to carry out this subsection \$3,000,000 for fiscal year 1993 and \$3,000,000 for fiscal year 1994.

(h) **MATCHING REQUIREMENT.**—Each recipient of a grant under this section shall make contributions toward the cost of activities that receive assistance under this section in an amount not less than 10 percent of the total grant amount under this section.

(i) **PROHIBITION OF SUBSTITUTION OF FUNDS.**—Grants under this subtitle may not be used to replace other amounts made available or designated by State or local governments for use for the purposes under this subtitle.

(j) **LIMITATION ON USE.**—An applicant shall ensure that not more than 10 percent of the grant will be used for administrative expenses associated with the activities funded.

(k) **FINANCIAL RECORDS.**—An applicant shall maintain and provide the Secretary with financial records sufficient, in the determination of the Secretary, to ensure proper accounting and disbursing of amounts received from a grant under this section.

(l) **REPORT.**—An applicant under this section shall submit to the Secretary, for any fiscal year in which the applicant expends grant funds under this section, a report that—

(1) describes the use of the amounts received;

(2) states the number of risk assessments and the number of inspections conducted in residential dwellings;

(3) states the number of residential dwellings in which lead-based paint hazards have been reduced through interim controls;

(4) states the number of residential dwellings in which lead-based paint hazards have been abated; and

(5) provides any other information that the Secretary determines to be appropriate.

(m) **NOTICE OF FUNDING AVAILABILITY.**—The Secretary shall publish a Notice of Funding Availability pursuant to this section not later than 120 days after funds are appropriated for this section.

(n) **RELATIONSHIP TO OTHER LAW.**—Effective 2 years after the date of promulgation of regulations under section 402 of the Toxic Substances Control Act, no grants for lead-based paint hazard evaluation or reduction may be awarded to a State under this section unless such State has an authorized program under section 404 of the Toxic Substances Control Act.

(o) **AUTHORIZATION OF APPROPRIATIONS.**—For the purposes of carrying out this Act, there are authorized to be appropriated \$125,000,000 for fiscal year 1993 and \$250,000,000 for fiscal year 1994.

**SEC. 1012. EVALUATION AND REDUCTION OF LEAD-BASED PAINT HAZARDS IN FEDERALLY ASSISTED HOUSING.**

(a) **GENERAL REQUIREMENTS.**—Section 302 of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4822) is amended—

(1) by striking the title of the section and inserting:

“REQUIREMENTS FOR HOUSING RECEIVING FEDERAL ASSISTANCE”;

(2) in the first sentence of subsection (a)—

(A) by striking “The Secretary” and inserting the following:

“(1) **ELIMINATION OF HAZARDS.**—The Secretary”; and

(B) by inserting before the period “or otherwise receives more than \$5,000 in project-based assistance under a Federal housing program”;

(3) by striking the second sentence of subsection (a) and inserting: “Beginning on January 1, 1995, such procedures shall apply to all such housing that constitutes target housing, as defined in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, and shall provide for appropriate measures to conduct risk assessments, inspections, interim controls, and abatement of lead-based paint hazards. At a minimum, such procedures shall require—

“(A) the provision of lead hazard information pamphlets, developed pursuant to section 406 of the Toxic Substances Control Act, to purchasers and tenants;

“(B) periodic risk assessments and interim controls in accordance with a schedule determined by the Secretary, the initial risk assessment of each unit constructed prior to 1960 to be conducted not later than January 1, 1996, and, for units constructed between 1960 and 1978—

“(i) not less than 25 percent shall be performed by January 1, 1998;

“(ii) not less than 50 percent shall be performed by January 1, 2000; and

“(iii) the remainder shall be performed by January 1, 2002;

“(C) inspection for the presence of lead-based paint prior to federally-funded renovation or rehabilitation that is likely to disturb painted surfaces;

“(D) reduction of lead-based paint hazards in the course of rehabilitation projects receiving less than \$25,000 per unit in Federal funds;

“(E) abatement of lead-based paint hazards in the course of substantial rehabilitation projects receiving more than \$25,000 per unit in Federal funds;

“(F) where risk assessment, inspection, or reduction activities have been undertaken, the provision of notice to occupants describing the nature and scope of such activities and the actual risk assessment or inspection reports (including available information on the location of any remaining lead-based paint on a surface-by-surface basis); and



“(G) such other measures as the Secretary deems appropriate.”; and

(4) in the third sentence, by striking “The Secretary may” and inserting the following:

“(2) ADDITIONAL MEASURES.—The Secretary may”.

(b) MEASUREMENT CRITERIA.—Section 302(b) of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4822(b)) is amended by striking “for the detection” and all that follows through the end of paragraph (2) and inserting “for the risk assessment, interim control, inspection, and abatement of lead-based paint hazards in housing covered by this section shall be based upon guidelines developed pursuant to section 1017 of the Residential Lead-Based Paint Hazard Reduction Act of 1992.”.

(c) INSPECTION.—Section 302(c) of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4822(c)) is amended—

(1) in the second sentence, by striking “qualified” and inserting “certified”; and

(2) in the third and fourth sentences, by inserting “or 0.5 percent by weight” after “squared”.

(d) PUBLIC HOUSING.—Section 302(d)(1) of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4822(d)(1)) is amended—

(1) in the heading, by striking “CIAP” and inserting “MODERNIZATION”; and

(2) in the fourth sentence, by striking “to eliminate the lead-based paint poisoning hazards” and inserting “of lead-based paint and lead-based paint hazards”.

(e) HOME INVESTMENT PARTNERSHIPS.—Section 212(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12742(a)) is amended by adding at the end the following new paragraph:

“(5) LEAD-BASED PAINT HAZARDS.—A participating jurisdiction may use funds provided under this subtitle for the evaluation and reduction of lead-based paint hazards, as defined in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992.”.

(f) COMMUNITY DEVELOPMENT BLOCK GRANTS.—Section 105(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)) is amended—

(1) in paragraph (19), by striking “and” at the end;

(2) in paragraph (20), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following new paragraph:

“(21) lead-based paint hazard evaluation and reduction, as defined in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992.”.

(g) SECTION 8 RENTAL ASSISTANCE.—Section 8(c)(2)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(B)) is amended by adding at the end the following: “The Secretary may (at the discretion of the Secretary and subject to the availability of appropriations for contract amendments), on a project by project basis for projects receiving project-based assistance, provide adjustments to the maximum monthly rents to cover the costs of evaluating and reducing lead-based paint hazards, as defined in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992.”.

(h) HOPE FOR PUBLIC AND INDIAN HOUSING HOMEOWNERSHIP.—The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended—

42 USC  
1437aaa-1.

(1) in section 302(b)—

(A) by redesignating paragraphs (4) through (8) as paragraphs (5) through (9), respectively; and

(B) by inserting after paragraph (3) the following:

“(4) inspection for lead-based paint hazards, as required by section 302(a) of the Lead-Based Paint Poisoning Prevention Act.”; and

42 USC  
1437aaa-2.

(2) in section 303(b)—

(A) by redesignating paragraphs (4) through (13) as paragraphs (5) through (14), respectively; and

(B) by adding after paragraph (3) the following:

“(4) Abatement of lead-based paint hazards, as required by section 302(a) of the Lead-Based Paint Poisoning Prevention Act.”.

(i) HOPE FOR HOMEOWNERSHIP OF MULTIFAMILY UNITS.—The Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12701 et seq.) is amended—

42 USC 12872.

(1) in section 422(b)—

(A) by redesignating paragraphs (4) through (8) as paragraphs (5) through (9), respectively; and

(B) by inserting after paragraph (3) the following:

“(4) inspection for lead-based paint hazards, as required by section 302(a) of the Lead-Based Paint Poisoning Prevention Act.”; and

42 USC 12873.

(2) in section 423(b)—

(A) by redesignating paragraphs (4) through (13) as paragraphs (5) through (14), respectively; and

(B) by inserting after paragraph (3) the following:

“(4) Abatement of lead-based paint hazards, as required by section 302(a) of the Lead-Based Paint Poisoning Prevention Act.”.

(j) HOPE FOR HOMEOWNERSHIP OF SINGLE FAMILY HOMES.—The Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12701 et seq.) is amended—

42 USC 12892.

(1) in section 442(b)—

(A) by redesignating paragraphs (4) through (8) as paragraphs (5) through (9), respectively; and

(B) by inserting after paragraph (3) the following:

“(4) inspection for lead-based paint hazards, as required by section 302(a) of the Lead-Based Paint Poisoning Prevention Act.”; and

42 USC 12893.

(2) in section 443(b)—

(A) by redesignating paragraphs (4) through (10) as paragraphs (5) through (11), respectively; and

(B) by inserting after paragraph (3) the following:

“(4) Abatement of lead-based paint hazards, as required by section 302(a) of the Lead-Based Paint Poisoning Prevention Act.”.

(k) FHA INSURANCE FOR SINGLE FAMILY HOMES.—

(1) HOME IMPROVEMENT LOANS.—Section 2(a) of the National Housing Act (12 U.S.C. 1703(a)) is amended in the fifth paragraph—

(A) by inserting after the first sentence the following:

“Alterations, repairs, and improvements upon or in connec-

tion with existing structures may also include the evaluation and reduction of lead-based paint hazards.”; and

(B) by adding at the end the following:

“(4) the terms ‘evaluation’, ‘reduction’, and ‘lead-based paint hazard’ have the same meanings given those terms in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992.”.

(2) REHABILITATION LOANS.—Section 203(k)(2)(B) of the National Housing Act (12 U.S.C. 1709(k)(2)(B)) is amended by adding at the end the following: “The term ‘rehabilitation’ may also include measures to evaluate and reduce lead-based paint hazards, as such terms are defined in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992.”.

(1) FHA INSURANCE FOR MULTIFAMILY HOUSING.—Section 221(d)(4)(iv) of the National Housing Act (12 U.S.C. 1715l(d)(4)(iv)) is amended by inserting after “rehabilitation” the first time it appears the following: “(including the cost of evaluating and reducing lead-based paint hazards, as such terms are defined in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992)”.

(m) RURAL HOUSING.—Section 501(a) of the Housing Act of 1949 (42 U.S.C. 1471) is amended by adding at the end the following:

“(5) DEFINITIONS.—For purposes of this title, the terms ‘repair’, ‘repairs’, ‘rehabilitate’, and ‘rehabilitation’ include measures to evaluate and reduce lead-based paint hazards, as such terms are defined in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992.”.

#### SEC. 1013. DISPOSITION OF FEDERALLY OWNED HOUSING.

Section 302(a) of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4822(a)) (as amended by section 1012(a)) is amended by striking the fourth sentence and adding at the end the following:

“(3) DISPOSITION OF FEDERALLY OWNED HOUSING.—

“(A) PRE-1960 TARGET HOUSING.—Beginning on January 1, 1995, procedures established under paragraphs (1) and (2) shall require the inspection and abatement of lead-based paint hazards in all federally owned target housing constructed prior to 1960.

“(B) TARGET HOUSING CONSTRUCTED BETWEEN 1960 AND 1978.—Beginning on January 1, 1995, procedures established under paragraphs (1) and (2) shall require an inspection for lead-based paint and lead-based paint hazards in all federally owned target housing constructed between 1960 and 1978. The results of such inspections shall be made available to prospective purchasers, identifying the presence of lead-based paint and lead-based paint hazards on a surface-by-surface basis. The Secretary shall have the discretion to waive the requirement of this subparagraph for housing in which a federally funded risk assessment, performed by a certified contractor, has determined no lead-based paint hazards are present.

“(C) BUDGET AUTHORITY.—To the extent that subparagraphs (A) and (B) increase the cost to the Government of outstanding direct loan obligations or loan guarantee commitments, such activities shall be treated as modifica-

tions under section 504(e) of the Federal Credit Reform Act of 1990 and shall be subject to the availability of appropriations. To the extent that paragraphs (A) and (B) impose additional costs to the Resolution Trust Corporation and the Federal Deposit Insurance Corporation, its requirements shall be carried out only if appropriations are provided in advance in an appropriations Act. In the absence of appropriations sufficient to cover the costs of subparagraphs (A) and (B), these requirements shall not apply to the affected agency or agencies.

“(D) DEFINITIONS.—For the purposes of this subsection, the terms ‘inspection’, ‘abatement’, ‘lead-based paint hazard’, ‘federally owned housing’, ‘target housing’, ‘risk assessment’, and ‘certified contractor’ have the same meaning given such terms in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992.

“(4) DEFINITIONS.—For purposes of this subsection, the terms ‘risk assessment’, ‘inspection’, ‘interim control’, ‘abatement’, ‘reduction’, and ‘lead-based paint hazard’ have the same meaning given such terms in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992.

#### SEC. 1014. COMPREHENSIVE HOUSING AFFORDABILITY STRATEGY.

Section 105 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705) is amended—

- (1) in subsection (b)(14), by striking “and” at the end;
- (2) in subsection (b)(15), by striking the period at the end and inserting “; and”;

(3) by inserting after paragraph (15) of subsection (b) the following new paragraph:

“(16) estimate the number of housing units within the jurisdiction that are occupied by low-income families or very low-income families and that contain lead-based paint hazards, as defined in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, outline the actions proposed or being taken to evaluate and reduce lead-based paint hazards, and describe how lead-based paint hazard reduction will be integrated into housing policies and programs.”; and

(4) in subsection (e)—

(A) by striking “When preparing” and inserting the following:

“(1) IN GENERAL.—When preparing”; and

(B) by adding at the end the following new paragraph:

“(2) LEAD-BASED PAINT HAZARDS.—When preparing that portion of a housing strategy required by subsection (b)(16), a jurisdiction shall consult with State or local health and child welfare agencies and examine existing data related to lead-based paint hazards and poisonings, including health department data on the addresses of housing units in which children have been identified as lead poisoned.”.

42 USC 4852a.

#### SEC. 1015. TASK FORCE ON LEAD-BASED PAINT HAZARD REDUCTION AND FINANCING.

(a) IN GENERAL.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall establish a task force to make recommendations on expanding resources and efforts to evaluate and reduce lead-based paint hazards in private housing.

(b) **MEMBERSHIP.**—The task force shall include individuals representing the Department of Housing and Urban Development, the Farmers Home Administration, the Department of Veterans Affairs, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Environmental Protection Agency, employee organizations in the building and construction trades industry, landlords, tenants, primary lending institutions, private mortgage insurers, single-family and multifamily real estate interests, nonprofit housing developers, property liability insurers, public housing agencies, low-income housing advocacy organizations, national, State and local lead-poisoning prevention advocates and experts, and community-based organizations located in areas with substantial rental housing.

(c) **RESPONSIBILITIES.**—The task force shall make recommendations to the Secretary and the Administrator of the Environmental Protection Agency concerning—

(1) incorporating the need to finance lead-based paint hazard reduction into underwriting standards;

(2) developing new loan products and procedures for financing lead-based paint hazard evaluation and reduction activities;

(3) adjusting appraisal guidelines to address lead safety;

(4) incorporating risk assessments or inspections for lead-based paint as a routine procedure in the origination of new residential mortgages;

(5) revising guidelines, regulations, and educational pamphlets issued by the Department of Housing and Urban Development and other Federal agencies relating to lead-based paint poisoning prevention;

(6) reducing the current uncertainties of liability related to lead-based paint in rental housing by clarifying standards of care for landlords and lenders, and by exploring the “safe harbor” concept;

(7) increasing the availability of liability insurance for owners of rental housing and certified contractors and establishing alternative systems to compensate victims of lead-based paint poisoning; and

(8) evaluating the utility and appropriateness of requiring risk assessments or inspections and notification to prospective lessees of rental housing.

(d) **COMPENSATION.**—The members of the task force shall not receive Federal compensation for their participation.

**SEC. 1016. NATIONAL CONSULTATION ON LEAD-BASED PAINT HAZARD REDUCTION.**

42 USC 4852b.

In carrying out this Act, the Secretary shall consult on an ongoing basis with the Administrator of the Environmental Protection Agency, the Director of the Centers for Disease Control, other Federal agencies concerned with lead poisoning prevention, and the task force established pursuant to section 1015.

**SEC. 1017. GUIDELINES FOR LEAD-BASED PAINT HAZARD EVALUATION AND REDUCTION ACTIVITIES.**

42 USC 4852c.

Not later than 12 months after the date of enactment of this Act, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Labor, and the Secretary of Health and Human Services (acting through the Director of the Centers for Disease Control), shall issue guidelines for the conduct of federally supported work involving risk assessments,

inspections, interim controls, and abatement of lead-based paint hazards. Such guidelines shall be based upon criteria that measure the condition of the housing (and the presence of children under age 6 for the purposes of risk assessments) and shall not be based upon criteria that measure the health of the residents of the housing.

42 USC 4852d.

**SEC. 1018. DISCLOSURE OF INFORMATION CONCERNING LEAD UPON TRANSFER OF RESIDENTIAL PROPERTY.**

**(a) LEAD DISCLOSURE IN PURCHASE AND SALE OR LEASE OF TARGET HOUSING.—**

Regulations.

**(1) LEAD-BASED PAINT HAZARDS.**—Not later than 2 years after the date of enactment of this Act, the Secretary and the Administrator of the Environmental Protection Agency shall promulgate regulations under this section for the disclosure of lead-based paint hazards in target housing which is offered for sale or lease. The regulations shall require that, before the purchaser or lessee is obligated under any contract to purchase or lease the housing, the seller or lessor shall—

(A) provide the purchaser or lessee with a lead hazard information pamphlet, as prescribed by the Administrator of the Environmental Protection Agency under section 406 of the Toxic Substances Control Act;

(B) disclose to the purchaser or lessee the presence of any known lead-based paint, or any known lead-based paint hazards, in such housing and provide to the purchaser or lessee any lead hazard evaluation report available to the seller or lessor; and

(C) permit the purchaser a 10-day period (unless the parties mutually agree upon a different period of time) to conduct a risk assessment or inspection for the presence of lead-based paint hazards.

**(2) CONTRACT FOR PURCHASE AND SALE.**—Regulations promulgated under this section shall provide that every contract for the purchase and sale of any interest in target housing shall contain a Lead Warning Statement and a statement signed by the purchaser that the purchaser has—

(A) read the Lead Warning Statement and understands its contents;

(B) received a lead hazard information pamphlet; and

(C) had a 10-day opportunity (unless the parties mutually agreed upon a different period of time) before becoming obligated under the contract to purchase the housing to conduct a risk assessment or inspection for the presence of lead-based paint hazards.

**(3) CONTENTS OF LEAD WARNING STATEMENT.**—The Lead Warning Statement shall contain the following text printed in large type on a separate sheet of paper attached to the contract:

“Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women.

The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase."

(4) **COMPLIANCE ASSURANCE.**—Whenever a seller or lessor has entered into a contract with an agent for the purpose of selling or leasing a unit of target housing, the regulations promulgated under this section shall require the agent, on behalf of the seller or lessor, to ensure compliance with the requirements of this section.

(5) **PROMULGATION.**—A suit may be brought against the Secretary of Housing and Urban Development and the Administrator of the Environmental Protection Agency under section 20 of the Toxic Substances Control Act to compel promulgation of the regulations required under this section and the Federal district court shall have jurisdiction to order such promulgation.

(b) **PENALTIES FOR VIOLATIONS.**—

(1) **MONETARY PENALTY.**—Any person who knowingly violates any provision of this section shall be subject to civil money penalties in accordance with the provisions of section 102 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545).

(2) **ACTION BY SECRETARY.**—The Secretary is authorized to take such lawful action as may be necessary to enjoin any violation of this section.

(3) **CIVIL LIABILITY.**—Any person who knowingly violates the provisions of this section shall be jointly and severally liable to the purchaser or lessee in an amount equal to 3 times the amount of damages incurred by such individual.

(4) **COSTS.**—In any civil action brought for damages pursuant to paragraph (3), the appropriate court may award court costs to the party commencing such action, together with reasonable attorney fees and any expert witness fees, if that party prevails.

(5) **PROHIBITED ACT.**—It shall be a prohibited act under section 409 of the Toxic Substances Control Act for any person to fail or refuse to comply with a provision of this section or with any rule or order issued under this section. For purposes of enforcing this section under the Toxic Substances Control Act, the penalty for each violation applicable under section 16 of that Act shall not be more than \$10,000.

(c) **VALIDITY OF CONTRACTS AND LIENS.**—Nothing in this section shall affect the validity or enforceability of any sale or contract for the purchase and sale or lease of any interest in residential real property or any loan, loan agreement, mortgage, or lien made or arising in connection with a mortgage loan, nor shall anything in this section create a defect in title.

(d) **EFFECTIVE DATE.**—The regulations under this section shall take effect 3 years after the date of the enactment of this title.

Lead-Based  
Paint Exposure  
Reduction Act.

## Subtitle B—Lead Exposure Reduction

### SEC. 1021. CONTRACTOR TRAINING AND CERTIFICATION.

(a) AMENDMENT TO THE TOXIC SUBSTANCES CONTROL ACT.—The Toxic Substances Control Act (15 U.S.C. 2601 et seq.) is amended by adding after title III the following new title:

## “TITLE IV—LEAD EXPOSURE REDUCTION

15 USC 2681.

### “SEC. 401. DEFINITIONS.

“For the purposes of this title:

“(1) ABATEMENT.—The term ‘abatement’ means any set of measures designed to permanently eliminate lead-based paint hazards in accordance with standards established by the Administrator under this title. Such term includes—

“(A) the removal of lead-based paint and lead-contaminated dust, the permanent containment or encapsulation of lead-based paint, the replacement of lead-painted surfaces or fixtures, and the removal or covering of lead-contaminated soil; and

“(B) all preparation, cleanup, disposal, and postabatement clearance testing activities associated with such measures.

“(2) ACCESSIBLE SURFACE.—The term ‘accessible surface’ means an interior or exterior surface painted with lead-based paint that is accessible for a young child to mouth or chew.

“(3) DETERIORATED PAINT.—The term ‘deteriorated paint’ means any interior or exterior paint that is peeling, chipping, chalking or cracking or any paint located on an interior or exterior surface or fixture that is damaged or deteriorated.

“(4) EVALUATION.—The term ‘evaluation’ means risk assessment, inspection, or risk assessment and inspection.

“(5) FRICTION SURFACE.—The term ‘friction surface’ means an interior or exterior surface that is subject to abrasion or friction, including certain window, floor, and stair surfaces.

“(6) IMPACT SURFACE.—The term ‘impact surface’ means an interior or exterior surface that is subject to damage by repeated impacts, for example, certain parts of door frames.

“(7) INSPECTION.—The term ‘inspection’ means (A) a surface-by-surface investigation to determine the presence of lead-based paint, as provided in section 302(c) of the Lead-Based Paint Poisoning Prevention Act, and (B) the provision of a report explaining the results of the investigation.

“(8) INTERIM CONTROLS.—The term ‘interim controls’ means a set of measures designed to reduce temporarily human exposure or likely exposure to lead-based paint hazards, including specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint hazards or potential hazards, and the establishment and operation of management and resident education programs.

“(9) LEAD-BASED PAINT.—The term ‘lead-based paint’ means paint or other surface coatings that contain lead in excess of 1.0 milligrams per centimeter squared or 0.5 percent by weight or (A) in the case of paint or other surface coatings



on target housing, such lower level as may be established by the Secretary of Housing and Urban Development, as defined in section 302(c) of the Lead-Based Paint Poisoning Prevention Act, or (B) in the case of any other paint or surface coatings, such other level as may be established by the Administrator.

"(10) LEAD-BASED PAINT HAZARD.—The term 'lead-based paint hazard' means any condition that causes exposure to lead from lead-contaminated dust, lead-contaminated soil, lead-contaminated paint that is deteriorated or present in accessible surfaces, friction surfaces, or impact surfaces that would result in adverse human health effects as established by the Administrator under this title.

"(11) LEAD-CONTAMINATED DUST.—The term 'lead-contaminated dust' means surface dust in residential dwellings that contains an area or mass concentration of lead in excess of levels determined by the Administrator under this title to pose a threat of adverse health effects in pregnant women or young children.

"(12) LEAD-CONTAMINATED SOIL.—The term 'lead-contaminated soil' means bare soil on residential real property that contains lead at or in excess of the levels determined to be hazardous to human health by the Administrator under this title.

"(13) REDUCTION.—The term 'reduction' means measures designed to reduce or eliminate human exposure to lead-based paint hazards through methods including interim controls and abatement.

"(14) RESIDENTIAL DWELLING.—The term 'residential dwelling' means—

"(A) a single-family dwelling, including attached structures such as porches and stoops; or

"(B) a single-family dwelling unit in a structure that contains more than 1 separate residential dwelling unit, and in which each such unit is used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of 1 or more persons.

"(15) RESIDENTIAL REAL PROPERTY.—The term 'residential real property' means real property on which there is situated 1 or more residential dwellings used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of 1 or more persons.

"(16) RISK ASSESSMENT.—The term 'risk assessment' means an on-site investigation to determine and report the existence, nature, severity and location of lead-based paint hazards in residential dwellings, including—

"(A) information gathering regarding the age and history of the housing and occupancy by children under age 6;

"(B) visual inspection;

"(C) limited wipe sampling or other environmental sampling techniques;

"(D) other activity as may be appropriate; and

"(E) provision of a report explaining the results of the investigation.

"(17) TARGET HOUSING.—The term 'target housing' means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any child who is

less than 6 years of age resides or is expected to reside in such housing for the elderly or persons with disabilities) or any 0-bedroom dwelling. In the case of jurisdictions which banned the sale or use of lead-based paint prior to 1978, the Secretary of Housing and Urban Development, at the Secretary's discretion, may designate an earlier date.

15 USC 2682.

**"SEC. 402. LEAD-BASED PAINT ACTIVITIES TRAINING AND CERTIFICATION.**

**"(a) REGULATIONS.—**

**"(1) IN GENERAL.—**Not later than 18 months after the date of the enactment of this section, the Administrator shall, in consultation with the Secretary of Labor, the Secretary of Housing and Urban Development, and the Secretary of Health and Human Services (acting through the Director of the National Institute for Occupational Safety and Health), promulgate final regulations governing lead-based paint activities to ensure that individuals engaged in such activities are properly trained; that training programs are accredited; and that contractors engaged in such activities are certified. Such regulations shall contain standards for performing lead-based paint activities, taking into account reliability, effectiveness, and safety. Such regulations shall require that all risk assessment, inspection, and abatement activities performed in target housing shall be performed by certified contractors, as such term is defined in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992. The provisions of this section shall supersede the provisions set forth under the heading 'Lead Abatement Training and Certification' and under the heading 'Training Grants' in title III of the Act entitled 'An Act making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1992, and for other purposes', Public Law 102-139, and upon the enactment of this section the provisions set forth in such public law under such headings shall cease to have any force and effect.

**"(2) ACCREDITATION OF TRAINING PROGRAMS.—**Final regulations promulgated under paragraph (1) shall contain specific requirements for the accreditation of lead-based paint activities training programs for workers, supervisors, inspectors and planners, and other individuals involved in lead-based paint activities, including, but not limited to, each of the following:

**"(A) Minimum requirements for the accreditation of training providers.**

**"(B) Minimum training curriculum requirements.**

**"(C) Minimum training hour requirements.**

**"(D) Minimum hands-on training requirements.**

**"(E) Minimum trainee competency and proficiency requirements.**

**"(F) Minimum requirements for training program quality control.**

**"(3) ACCREDITATION AND CERTIFICATION FEES.—**The Administrator (or the State in the case of an authorized State program) shall impose a fee on—

**"(A) persons operating training programs accredited under this title; and**

“(B) lead-based paint activities contractors certified in accordance with paragraph (1).

The fees shall be established at such level as is necessary to cover the costs of administering and enforcing the standards and regulations under this section which are applicable to such programs and contractors. The fee shall not be imposed on any State, local government, or nonprofit training program. The Administrator (or the State in the case of an authorized State program) may waive the fee for lead-based paint activities contractors under subparagraph (A) for the purpose of training their own employees.

“(b) LEAD-BASED PAINT ACTIVITIES.—For purposes of this title, the term ‘lead-based paint activities’ means—

“(1) in the case of target housing, risk assessment, inspection, and abatement; and

“(2) in the case of any public building constructed before 1978, commercial building, bridge, or other structure or superstructure, identification of lead-based paint and materials containing lead-based paint, deleading, removal of lead from bridges, and demolition.

For purposes of paragraph (2), the term ‘deleading’ means activities conducted by a person who offers to eliminate lead-based paint or lead-based paint hazards or to plan such activities.

“(c) RENOVATION AND REMODELING.—

“(1) GUIDELINES.—In order to reduce the risk of exposure to lead in connection with renovation and remodeling of target housing, public buildings constructed before 1978, and commercial buildings, the Administrator shall, within 18 months after the enactment of this section, promulgate guidelines for the conduct of such renovation and remodeling activities which may create a risk of exposure to dangerous levels of lead. The Administrator shall disseminate such guidelines to persons engaged in such renovation and remodeling through hardware and paint stores, employee organizations, trade groups, State and local agencies, and through other appropriate means.

“(2) STUDY OF CERTIFICATION.—The Administrator shall conduct a study of the extent to which persons engaged in various types of renovation and remodeling activities in target housing, public buildings constructed before 1978, and commercial buildings are exposed to lead in the conduct of such activities or disturb lead and create a lead-based paint hazard on a regular or occasional basis. The Administrator shall complete such study and publish the results thereof within 30 months after the enactment of this section.

“(3) CERTIFICATION DETERMINATION.—Within 4 years after the enactment of this section, the Administrator shall revise the regulations under subsection (a) to apply the regulations to renovation or remodeling activities in target housing, public buildings constructed before 1978, and commercial buildings that create lead-based paint hazards. In determining which contractors are engaged in such activities, the Administrator shall utilize the results of the study under paragraph (2) and consult with the representatives of labor organizations, lead-based paint activities contractors, persons engaged in remodeling and renovation, experts in lead health effects, and others. If the Administrator determines that any category of contractors engaged in renovation or remodeling does not require certi-

Regulations.

cation, the Administrator shall publish an explanation of the basis for that determination.

15 USC 2683.  
Regulations.

**"SEC. 403. IDENTIFICATION OF DANGEROUS LEVELS OF LEAD.**

"Within 18 months after the enactment of this title, the Administrator shall promulgate regulations which shall identify, for purposes of this title and the Residential Lead-Based Paint Hazard Reduction Act of 1992, lead-based paint hazards, lead-contaminated dust, and lead-contaminated soil.

15 USC 2684.

**"SEC. 404. AUTHORIZED STATE PROGRAMS.**

"(a) APPROVAL.—Any State which seeks to administer and enforce the standards, regulations, or other requirements established under section 402 or 406, or both, may, after notice and opportunity for public hearing, develop and submit to the Administrator an application, in such form as the Administrator shall require, for authorization of such a State program. Any such State may also certify to the Administrator at the time of submitting such program that the State program meets the requirements of paragraphs (1) and (2) of subsection (b). Upon submission of such certification, the State program shall be deemed to be authorized under this section, and shall apply in such State in lieu of the corresponding Federal program under section 402 or 406, or both, as the case may be, until such time as the Administrator disapproves the program or withdraws the authorization.

"(b) APPROVAL OR DISAPPROVAL.—Within 180 days following submission of an application under subsection (a), the Administrator shall approve or disapprove the application. The Administrator may approve the application only if, after notice and after opportunity for public hearing, the Administrator finds that—

"(1) the State program is at least as protective of human health and the environment as the Federal program under section 402 or 406, or both, as the case may be, and

"(2) such State program provides adequate enforcement. Upon authorization of a State program under this section, it shall be unlawful for any person to violate or fail or refuse to comply with any requirement of such program.

"(c) WITHDRAWAL OF AUTHORIZATION.—If a State is not administering and enforcing a program authorized under this section in compliance with standards, regulations, and other requirements of this title, the Administrator shall so notify the State and, if corrective action is not completed within a reasonable time, not to exceed 180 days, the Administrator shall withdraw authorization of such program and establish a Federal program pursuant to this title.

"(d) MODEL STATE PROGRAM.—Within 18 months after the enactment of this title, the Administrator shall promulgate a model State program which may be adopted by any State which seeks to administer and enforce a State program under this title. Such model program shall, to the extent practicable, encourage States to utilize existing State and local certification and accreditation programs and procedures. Such program shall encourage reciprocity among the States with respect to the certification under section 402.

"(e) OTHER STATE REQUIREMENTS.—Nothing in this title shall be construed to prohibit any State or political subdivision thereof from imposing any requirements which are more stringent than those imposed by this title.

"(f) STATE AND LOCAL CERTIFICATION.—The regulations under this title shall, to the extent appropriate, encourage States to seek program authorization and to use existing State and local certification and accreditation procedures, except that a State or local government shall not require more than 1 certification under this section for any lead-based paint activities contractor to carry out lead-based paint activities in the State or political subdivision thereof.

"(g) GRANTS TO STATES.—The Administrator is authorized to make grants to States to develop and carry out authorized State programs under this section. The grants shall be subject to such terms and conditions as the Administrator may establish to further the purposes of this title.

"(h) ENFORCEMENT BY ADMINISTRATOR.—If a State does not have a State program authorized under this section and in effect by the date which is 2 years after promulgation of the regulations under section 402 or 406, the Administrator shall, by such date, establish a Federal program for section 402 or 406 (as the case may be) for such State and administer and enforce such program in such State.

**"SEC. 405. LEAD ABATEMENT AND MEASUREMENT.**

15 USC 2685.

"(a) PROGRAM TO PROMOTE LEAD EXPOSURE ABATEMENT.—The Administrator, in cooperation with other appropriate Federal departments and agencies, shall conduct a comprehensive program to promote safe, effective, and affordable monitoring, detection, and abatement of lead-based paint and other lead exposure hazards.

"(b) STANDARDS FOR ENVIRONMENTAL SAMPLING LABORATORIES.—(1) The Administrator shall establish protocols, criteria, and minimum performance standards for laboratory analysis of lead in paint films, soil, and dust. Within 2 years after the enactment of this title, the Administrator, in consultation with the Secretary of Health and Human Services, shall establish a program to certify laboratories as qualified to test substances for lead content unless the Administrator determines, by the date specified in this paragraph, that effective voluntary accreditation programs are in place and operating on a nationwide basis at the time of such determination. To be certified under such program, a laboratory shall, at a minimum, demonstrate an ability to test substances accurately for lead content.

"(2) Not later than 24 months after the date of the enactment of this section, and annually thereafter, the Administrator shall publish and make available to the public a list of certified or accredited environmental sampling laboratories.

"(3) If the Administrator determines under paragraph (1) that effective voluntary accreditation programs are in place for environmental sampling laboratories, the Administrator shall review the performance and effectiveness of such programs within 3 years after such determination. If, upon such review, the Administrator determines that the voluntary accreditation programs are not effective in assuring the quality and consistency of laboratory analyses, the Administrator shall, not more than 12 months thereafter, establish a certification program that meets the requirements of paragraph (1).

"(c) EXPOSURE STUDIES.—(1) The Secretary of Health and Human Services (hereafter in this subsection referred to as the 'Secretary'), acting through the Director of the Centers for Disease

Public  
information.

Control, (CDC), and the Director of the National Institute of Environmental Health Sciences, shall jointly conduct a study of the sources of lead exposure in children who have elevated blood lead levels (or other indicators of elevated lead body burden), as defined by the Director of the Centers for Disease Control.

"(2) The Secretary, in consultation with the Director of the National Institute for Occupational Safety and Health, shall conduct a comprehensive study of means to reduce hazardous occupational lead abatement exposures. This study shall include, at a minimum, each of the following—

"(A) Surveillance and intervention capability in the States to identify and prevent hazardous exposures to lead abatement workers.

"(B) Demonstration of lead abatement control methods and devices and work practices to identify and prevent hazardous lead exposures in the workplace.

"(C) Evaluation, in consultation with the National Institute of Environmental Health Sciences, of health effects of low and high levels of occupational lead exposures on reproductive, neurological, renal, and cardiovascular health.

"(D) Identification of high risk occupational settings to which prevention activities and resources should be targeted.

"(E) A study assessing the potential exposures and risks from lead to janitorial and custodial workers.

"(3) The studies described in paragraphs (1) and (2) shall, as appropriate, examine the relative contributions to elevated lead body burden from each of the following:

"(A) Drinking water.

"(B) Food.

"(C) Lead-based paint and dust from lead-based paint.

"(D) Exterior sources such as ambient air and lead in soil.

"(E) Occupational exposures, and other exposures that the Secretary determines to be appropriate.

Reports.

"(4) Not later than 30 months after the date of the enactment of this section, the Secretary shall submit a report to the Congress concerning the studies described in paragraphs (1) and (2).

"(d) PUBLIC EDUCATION.—(1) The Administrator, in conjunction with the Secretary of Health and Human Services, acting through the Director of the Agency for Toxic Substances and Disease Registry, and in conjunction with the Secretary of Housing and Urban Development, shall sponsor public education and outreach activities to increase public awareness of—

"(A) the scope and severity of lead poisoning from household sources;

"(B) potential exposure to sources of lead in schools and childhood day care centers;

"(C) the implications of exposures for men and women, particularly those of childbearing age;

"(D) the need for careful, quality, abatement and management actions;

"(E) the need for universal screening of children;

"(F) other components of a lead poisoning prevention program;

"(G) the health consequences of lead exposure resulting from lead-based paint hazards;

effective for the intended use described by the manufacturer. The rule shall identify the types or classes of products that are subject to such rule. The President, in implementation of the rule, shall, to the maximum extent possible, utilize independent testing laboratories, as appropriate, and consult with such entities and others in developing the rules. The President may delegate the authorities under this subsection to the Environmental Protection Agency or the Secretary of Commerce or such other appropriate agency.

15 USC 2686.

**"SEC. 406. LEAD HAZARD INFORMATION PAMPHLET.**

**"(a) LEAD HAZARD INFORMATION PAMPHLET.**—Not later than 2 years after the enactment of this section, after notice and opportunity for comment, the Administrator of the Environmental Protection Agency, in consultation with the Secretary of Housing and Urban Development and with the Secretary of Health and Human Services, shall publish, and from time to time revise, a lead hazard information pamphlet to be used in connection with this title and section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992. The pamphlet shall—

**"(1)** contain information regarding the health risks associated with exposure to lead;

**"(2)** provide information on the presence of lead-based paint hazards in federally assisted, federally owned, and target housing;

**"(3)** describe the risks of lead exposure for children under 6 years of age, pregnant women, women of childbearing age, persons involved in home renovation, and others residing in a dwelling with lead-based paint hazards;

**"(4)** describe the risks of renovation in a dwelling with lead-based paint hazards;

**"(5)** provide information on approved methods for evaluating and reducing lead-based paint hazards and their effectiveness in identifying, reducing, eliminating, or preventing exposure to lead-based paint hazards;

**"(6)** advise persons how to obtain a list of contractors certified pursuant to this title in lead-based paint hazard evaluation and reduction in the area in which the pamphlet is to be used;

**"(7)** state that a risk assessment or inspection for lead-based paint is recommended prior to the purchase, lease, or renovation of target housing;

**"(8)** state that certain State and local laws impose additional requirements related to lead-based paint in housing and provide a listing of Federal, State, and local agencies in each State, including address and telephone number, that can provide information about applicable laws and available governmental and private assistance and financing; and

**"(9)** provide such other information about environmental hazards associated with residential real property as the Administrator deems appropriate.

**"(b) RENOVATION OF TARGET HOUSING.**—Within 2 years after the enactment of this section, the Administrator shall promulgate regulations under this subsection to require each person who performs for compensation a renovation of target housing to provide a lead hazard information pamphlet to the owner and occupant of such housing prior to commencing the renovation.

Regulations.

15 USC 2691.

**"SEC. 411. GENERAL PROVISIONS RELATING TO ADMINISTRATIVE PROCEEDINGS.**

**"(a) APPLICABILITY.**—This section applies to the promulgation or revision of any regulation issued under this title.

**"(b) RULEMAKING DOCKET.**—Not later than the date of proposal of any action to which this section applies, the Administrator shall establish a rulemaking docket for such action (hereinafter in this subsection referred to as a 'rule'). Whenever a rule applies only within a particular State, a second (identical) docket shall be established in the appropriate regional office of the Environmental Protection Agency.

**"(c) INSPECTION AND COPYING.**—(1) The rulemaking docket required under subsection (b) shall be open for inspection by the public at reasonable times specified in the notice of proposed rulemaking. Any person may copy documents contained in the docket. The Administrator shall provide copying facilities which may be used at the expense of the person seeking copies, but the Administrator may waive or reduce such expenses in such instances as the public interest requires. Any person may request copies by mail if the person pays the expenses, including personnel costs to do the copying.

**"(2)(A)** Promptly upon receipt by the agency, all written comments and documentary information on the proposed rule received from any person for inclusion in the docket during the comment period shall be placed in the docket. The transcript of public hearings, if any, on the proposed rule shall also be included in the docket promptly upon receipt from the person who transcribed such hearings. All documents which become available after the proposed rule has been published and which the Administrator determines are of central relevance to the rulemaking shall be placed in the docket as soon as possible after their availability.

**"(B)** The drafts of proposed rules submitted by the Administrator to the Office of Management and Budget for any interagency review process prior to proposal of any such rule, all documents accompanying such drafts, and all written comments thereon by other agencies and all written responses to such written comments by the Administrator shall be placed in the docket no later than the date of proposal of the rule. The drafts of the final rule submitted for such review process prior to promulgation and all such written comments thereon, all documents accompanying such drafts, and written responses thereto shall be placed in the docket no later than the date of promulgation.

**"(d) EXPLANATION.**—(1) The promulgated rule shall be accompanied by an explanation of the reasons for any major changes in the promulgated rule from the proposed rule.

**"(2)** The promulgated rule shall also be accompanied by a response to each of the significant comments, criticisms, and new data submitted in written or oral presentations during the comment period.

**"(3)** The promulgated rule may not be based (in part or whole) on any information or data which has not been placed in the docket as of the date of such promulgation.

**"(e) JUDICIAL REVIEW.**—The material referred to in subsection (c)(2)(B) shall not be included in the record for judicial review.

**"(f) EFFECTIVE DATE.**—The requirements of this section shall take effect with respect to any rule the proposal of which occurs after 90 days after the date of the enactment of this section.



**"SEC. 412. AUTHORIZATION OF APPROPRIATIONS.**

15 USC 2692.

"There are authorized to be appropriated to carry out the purposes of this title such sums as may be necessary."

(b) **TECHNICAL AND CONFORMING AMENDMENTS.**—The Toxic Substances Control Act (15 U.S.C. 2610) is amended as follows:

(1) In paragraph (1) of section 7(a), strike "or 6" and insert "6, or title IV" and after "5" insert "or title IV". 15 USC 2606.

(2) In the first sentence of subsection (a) of section 11: 15 USC 2610.

(A) Strike "or mixtures" before "are manufactured" and insert ", mixtures, or products subject to title IV".

(B) Insert "such products," before "or such articles".

(3) In paragraph (1) of subsection (b) of section 11, strike "or mixtures" and insert ", mixtures, or products subject to title IV".

(4) In paragraph (1) of section 13(a), strike "or 6" in each place it appears and insert ", 6, or title IV" and strike "or 7" and insert ", 7 or title IV". 15 USC 2612.

(5) In section 16, insert "or 409" after "section 15" each place it appears. 15 USC 2615.

(6) In section 17, amend subsection (a) to read as follows: 15 USC 2616.

"(a) **SPECIFIC ENFORCEMENT.**—(1) The district courts of the United States shall have jurisdiction over civil actions to—

"(A) restrain any violation of section 15 or 409,

"(B) restrain any person from taking any action prohibited by section 5, 6, or title IV, or by a rule or order under section 5, 6, or title IV,

"(C) compel the taking of any action required by or under this Act, or

"(D) direct any manufacturer or processor of a chemical substance, mixture, or product subject to title IV manufactured or processed in violation of section 5, 6, or title IV, or a rule or order under section 5, 6, or title IV, and distributed in commerce, (i) to give notice of such fact to distributors in commerce of such substance, mixture, or product and, to the extent reasonably ascertainable, to other persons in possession of such substance, mixture, or product or exposed to such substance, mixture, or product, (ii) to give public notice of such risk of injury, and (iii) to either replace or repurchase such substance, mixture, or product, whichever the person to which the requirement is directed elects."

Public information.

(7) In the first sentence of subsection (b) of section 17—

(A) strike "or mixture" after "Any chemical substance" and inserting ", mixture, or product subject to title IV"; and

(B) insert "product," before "or article" in each place that it appears.

(8) In section 19—

15 USC 2618.

(A) In the first sentence of subsection (a), after "title II" insert "or IV".

(B) Before the semicolon at the end of subsection (a)(3)(B) insert "and in the case of a rule under title IV, the finding required for the issuance of such a rule".

(9) In section 20(a)(1) after "title II" insert "or IV" in each place it appears. 15 USC 2619.

(10) Add at the end of the table of contents in section 1 the following:

**"TITLE IV—LEAD EXPOSURE REDUCTION**

- "Sec. 401. Definitions.
- "Sec. 402. Lead-based paint activities training and certification.
- "Sec. 403. Identification of dangerous levels of lead.
- "Sec. 404. Authorized State programs.
- "Sec. 405. Lead abatement and measurement.
- "Sec. 406. Lead hazard information pamphlet.
- "Sec. 407. Regulations.
- "Sec. 408. Control of lead-based paint hazards at Federal facilities.
- "Sec. 409. Prohibited acts.
- "Sec. 410. Relationship to other Federal law.
- "Sec. 411. General provisions relating to administrative proceedings.
- "Sec. 412. Authorization of appropriations."

15 USC 2601  
note.

(c) **SHORT TITLE.**—This subtitle may be cited as the "Lead-Based Paint Exposure Reduction Act".

**Subtitle C—Worker Protection**

42 USC 4853.  
Regulations.

**SEC. 1031. WORKER PROTECTION.**

Not later than 180 days after the enactment of this Act, the Secretary of Labor shall issue an interim final regulation regulating occupational exposure to lead in the construction industry. Such interim final regulation shall provide employment and places of employment to employees which are as safe and healthful as those which would prevail under the Department of Housing and Urban Development guidelines published at Federal Register 55, page 38973 (September 28, 1990) (Revised Chapter 8). Such interim final regulations shall take effect upon issuance (except that such regulations may include a reasonable delay in the effective date), shall have the legal effect of an Occupational Safety and Health Standard, and shall apply until a final standard becomes effective under section 6 of the Occupational Safety and Health Act of 1970.

42 USC 4853a.

**SEC. 1032. COORDINATION BETWEEN ENVIRONMENTAL PROTECTION AGENCY AND DEPARTMENT OF LABOR.**

The Secretary of Labor, in promulgating regulations under section 1031, shall consult and coordinate with the Administrator of the Environmental Protection Agency for the purpose of achieving the maximum enforcement of title IV of the Toxic Substances Control Act and the Occupational Safety and Health Act of 1970 while imposing the least burdens of duplicative requirements on those subject to such title and Act and for other purposes.

**SEC. 1033. NIOSH RESPONSIBILITIES.**

29 USC 671.

Section 22 of the Occupational Safety and Health Act of 1970 is amended by adding the following new subsection at the end thereof:

**"(g) LEAD-BASED PAINT ACTIVITIES.—**

"(1) **TRAINING GRANT PROGRAM.**—(A) The Institute, in conjunction with the Administrator of the Environmental Protection Agency, may make grants for the training and education of workers and supervisors who are or may be directly engaged in lead-based paint activities.

"(B) Grants referred to in subparagraph (A) shall be awarded to nonprofit organizations (including colleges and universities, joint labor-management trust funds, States, and nonprofit government employee organizations)—

"(i) which are engaged in the training and education of workers and supervisors who are or who may be directly

engaged in lead-based paint activities (as defined in title IV of the Toxic Substances Control Act),

“(ii) which have demonstrated experience in implementing and operating health and safety training and education programs, and

“(iii) with a demonstrated ability to reach, and involve in lead-based paint training programs, target populations of individuals who are or will be engaged in lead-based paint activities.

Grants under this subsection shall be awarded only to those organizations that fund at least 30 percent of their lead-based paint activities training programs from non-Federal sources, excluding in-kind contributions. Grants may also be made to local governments to carry out such training and education for their employees.

“(C) There are authorized to be appropriated, at a minimum, \$10,000,000 to the Institute for each of the fiscal years 1994 through 1997 to make grants under this paragraph.

Appropriation  
authorization.

“(2) EVALUATION OF PROGRAMS.—The Institute shall conduct periodic and comprehensive assessments of the efficacy of the worker and supervisor training programs developed and offered by those receiving grants under this section. The Director shall prepare reports on the results of these assessments addressed to the Administrator of the Environmental Protection Agency to include recommendations as may be appropriate for the revision of these programs. The sum of \$500,000 is authorized to be appropriated to the Institute for each of the fiscal years 1994 through 1997 to carry out this paragraph.”.

Appropriation  
authorization.

## Subtitle D—Research and Development

### PART 1—HUD RESEARCH

#### SEC. 1051. RESEARCH ON LEAD EXPOSURE FROM OTHER SOURCES.

42 USC 4854.

The Secretary, in cooperation with other Federal agencies, shall conduct research on strategies to reduce the risk of lead exposure from other sources, including exterior soil and interior lead dust in carpets, furniture, and forced air ducts.

#### SEC. 1052. TESTING TECHNOLOGIES.

42 USC 4854a.

The Secretary, in cooperation with other Federal agencies, shall conduct research to—

- (1) develop improved methods for evaluating lead-based paint hazards in housing;
- (2) develop improved methods for reducing lead-based paint hazards in housing;
- (3) develop improved methods for measuring lead in paint films, dust, and soil samples;
- (4) establish performance standards for various detection methods, including spot test kits;
- (5) establish performance standards for lead-based paint hazard reduction methods, including the use of encapsulants;
- (6) establish appropriate cleanup standards;
- (7) evaluate the efficacy of interim controls in various hazard situations;
- (8) evaluate the relative performance of various abatement techniques;

(9) evaluate the long-term cost-effectiveness of interim control and abatement strategies; and

(10) assess the effectiveness of hazard evaluation and reduction activities funded by this Act.

42 USC 4854b.

**SEC. 1053. AUTHORIZATION.**

Of the total amount approved in appropriation Acts under section 1011(o), there shall be set aside to carry out this part \$5,000,000 for fiscal year 1993, and \$5,000,000 for fiscal year 1994.

**PART 2—GAO REPORT**

42 USC 4855.

**SEC. 1056. FEDERAL IMPLEMENTATION AND INSURANCE STUDY.**

(a) **FEDERAL IMPLEMENTATION STUDY.**—The Comptroller General of the United States shall assess the effectiveness of Federal enforcement and compliance with lead safety laws and regulations, including any changes needed in annual inspection procedures to identify lead-based paint hazards in units receiving assistance under subsections (b) and (c) of section 8 of the United States Housing Act of 1937.

(b) **INSURANCE STUDY.**—The Comptroller General of the United States shall assess the availability of liability insurance for owners of residential housing that contains lead-based paint and persons engaged in lead-based paint hazard evaluation and reduction activities. In carrying out the assessment, the Comptroller General shall—

(1) analyze any precedents in the insurance industry for the containment and abatement of environmental hazards, such as asbestos, in federally assisted housing;

(2) provide an assessment of the recent insurance experience in the public housing lead hazard identification and reduction program; and

(3) recommend measures for increasing the availability of liability insurance to owners and contractors engaged in federally supported work.

**Subtitle E—Reports**

42 USC 4856.

**SEC. 1061. REPORTS OF THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT.**

(a) **ANNUAL REPORT.**—The Secretary shall transmit to the Congress an annual report that—

(1) sets forth the Secretary's assessment of the progress made in implementing the various programs authorized by this title;

(2) summarizes the most current health and environmental studies on childhood lead poisoning, including studies that analyze the relationship between interim control and abatement activities and the incidence of lead poisoning in resident children;

(3) recommends legislative and administrative initiatives that may improve the performance by the Department of Housing and Urban Development in combating lead hazards through the expansion of lead hazard evaluation and reduction activities;

(4) describes the results of research carried out in accordance with subtitle D; and

(5) estimates the amount of Federal assistance annually expended on lead hazard evaluation and reduction activities.

(b) BIENNIAL REPORT.—

(1) IN GENERAL.—24 months after the date of enactment of this Act, and at the end of every 24-month period thereafter, the Secretary shall report to the Congress on the progress of the Department of Housing and Urban Development in implementing expanded lead-based paint hazard evaluation and reduction activities.

(2) CONTENTS.—The report shall—

(A) assess the effectiveness of section 1018 in making the public aware of lead-based paint hazards;

(B) estimate the extent to which lead-based paint hazard evaluation and reduction activities are being conducted in the various categories of housing;

(C) monitor and report expenditures for lead-based paint hazard evaluation and reduction for programs within the jurisdiction of the Department of Housing and Urban Development;

(D) identify the infrastructure needed to eliminate lead-based paint hazards in all housing as expeditiously as possible, including cost-effective technology, standards and regulations, trained and certified contractors, certified laboratories, liability insurance, private financing techniques, and appropriate Government subsidies;

(E) assess the extent to which the infrastructure described in subparagraph (D) exists, make recommendations to correct shortcomings, and provide estimates of the costs of measures needed to build an adequate infrastructure; and

(F) include any additional information that the Secretary deems appropriate.

## **TITLE XI—NEW TOWNS DEMONSTRATION PROGRAM FOR EMERGENCY RELIEF OF LOS ANGELES**

California.  
42 USC 5318  
note.

### **SEC. 1101. AUTHORITY.**

To provide for the revitalization and renewal of inner city neighborhoods in the areas of Los Angeles, California, that were damaged by the civil disturbances during April and May of 1992, and to demonstrate the effectiveness of new town developments in revitalizing and restoring depressed and underprivileged inner city neighborhoods, the Secretary of Housing and Urban Development shall, to the extent or in such amounts as are provided in appropriation Acts, make any assistance authorized under this title available under this title to units of general local government, governing boards, and eligible mortgagors in accordance with the provisions of this title.

### **SEC. 1102. NEW TOWN PLAN.**

(a) REQUIREMENT.—The Secretary may make assistance available under this title only in connection with, and according to

the provisions of a new town plan developed and established by a governing board under section 1107 and approved under subsection (d) of this section. In developing such plans, the governing board shall consult with representatives of the units of general local government within whose boundaries are located any portion of the new town demonstration area for the demonstration program to be carried out under such plan.

(b) **ELIGIBLE NEW TOWN DEMONSTRATION AREAS.**—A new town plan under this section shall provide for carrying out a new town development demonstration providing assistance available under this title within a new town demonstration area, which shall be a geographic area defined in the new town plan—

(1) that is one of pervasive poverty, unemployment, and general distress;

(2) that has an unemployment rate of not less than 1.5 times the national unemployment rate for the 2 years preceding approval of the new town plan;

(3) that has a poverty rate of not less than 20 percent during such 2-year period;

(4) for which not less than 70 percent of the households living in the area have incomes below 80 percent of the median income of households of the unit of general local government in which they are located;

(5) that has a shortage of adequate jobs for residents; and

(6) that is located—

(A) in or near the City or County of Los Angeles, in the State of California; and

(B) within an area for which the President, pursuant to title IV or V of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, declared that a major disaster or emergency existed for purposes of such Act, as a result of the civil disturbances involving acts of violence occurring on or after April 29, 1992, and before May 6, 1992.

(c) **CONTENTS.**—Each new town plan shall include the following information:

(1) **GOVERNING BOARD.**—A description of the members and purposes of the governing board that developed the plan, the manner in which members of the governing board were selected, and the businesses, agencies, interests, and community ties of each member of the governing board.

(2) **NEW TOWN DEMONSTRATION AREA.**—A definition and description of the new town demonstration area for the new town development demonstration to be assisted under this title.

(3) **TARGET COMMUNITY.**—A description of the economic, social, racial, and ethnic characteristics of the population of the neighborhood or area in which the new town demonstration area is located.

(4) **AGREEMENTS.**—Agreements that the governing board will carry out the new town demonstration program in accordance with the requirements of this title.

(5) **HOUSING UNITS.**—A description of the number, size, location, cost, style, and characteristics of rental and homeownership housing units to be developed under the new town demonstration program, any financing for developing such

housing, and the amount of assistance necessary under section 1105 for developing the housing under the program.

(6) **JOBS.**—A description of the number, types, and duration of any new jobs that will be created in the new town demonstration area and surrounding areas as a result of the demonstration program, and of any job training activities and apprenticeship programs to be made available in connection with the program.

(7) **SOCIAL SERVICES.**—A description of the social and supportive services to be made available under the demonstration program to residents of housing assisted under the demonstration program pursuant to section 1103(d) and to residents of the new town demonstration area.

(8) **SUPPLEMENTAL RESOURCES.**—A description of any funds, assistance, in-kind contributions, and other resources to be made available in connection with the demonstration program, including the sources and amounts of any private capital resources and non-Federal funds required under section 1103(h).

(9) **CONTRACTORS AND DEVELOPERS.**—A listing of the contractors and developers who potentially will carry out any construction and rehabilitation work for development of housing under the demonstration program and the expected costs involved in hiring such contractors and developers.

(10) **FINANCING FOR HOMEBUYERS.**—A description of any mortgage lenders who have indicated that they will make financing available to families purchasing housing developed under the demonstration program through mortgages eligible for insurance under section 1104 and proposed terms of such mortgages.

(11) **COMMITMENTS.**—Evidence of any commitments entered into for making any of the resources described in paragraphs (6) through (8) available in connection with the demonstration program.

(12) **PRESALE REQUIREMENTS.**—A description of commitments made to purchase not less than 50 percent of the housing to be developed under the demonstration program for purchase by the occupant and to rent not less than 50 percent of the rental dwelling units to be developed under the demonstration program.

(13) **COMMUNITY DEVELOPMENT ACTIVITIES.**—A description of the community development activities to be carried out with assistance under section 1106, the amount of assistance necessary under such section for such activities, and of the projected uses of such assistance.

**(d) REVIEW AND APPROVAL.**—

(1) **SUBMISSION.**—Not later than the expiration of the 6-month period beginning on the date of the enactment of this Act, a governing board shall submit a new town plan under this section to the chief executive officers of each unit of general local government within whose boundaries is located any portion of the new town demonstration area described under the plan of the board.

(2) **APPROVAL.**—For a plan to be eligible for assistance available under this title, the chief executive officer of all units of general local government to whom the new town plan is submitted shall approve the plan at a public meeting after

the plan has been made publicly available for a period of not less than 30 days. A governing board may resubmit for approval any plan returned by any such chief executive officer to the governing board, and such chief executive officer may, upon returning the plan indicate any modifications necessary for approval. A new town plan may not be approved unless such chief executive officers determine that the membership of the governing board submitting the plan is constituted in accordance with section 1107 and the governing board is capable of carrying out the plan.

(3) **AMENDMENT.**—An approved new town plan for the demonstration program developed by the governing board may be amended by the board by obtaining approval of the amendment in the manner provided under this subsection for approval of plans. If the chief executive officer of the unit of general local government does not approve or return the amended plan within 30 days of submission, the amended plan shall be considered to be approved for purposes of this subsection.

**SEC. 1103. NEW TOWN DEVELOPMENT DEMONSTRATION PROGRAM REQUIREMENTS.**

(a) **IN GENERAL.**—Each of the 2 new town development demonstration programs selected for assistance under this title under section 1102 shall be carried out, by the governing board submitting the new town plan for the demonstration program, in accordance with such plan (and any approved amendments of such plans) and shall be subject to the requirements under this section.

(b) **LOCAL PARTICIPATION.**—With respect to any activities carried out under the demonstration program, the program shall give preference in awarding contracts, purchasing materials, acquiring services, and obtaining assistance or training, to contractors, businesses, developers, professionals, and other establishments located or having offices within the new town demonstration area.

(c) **HOUSING.**—

(1) **NUMBER OF UNITS.**—The demonstration program shall construct or renovate not less than 1,500 dwelling units in the new town demonstration area, of which not less than 60 percent shall be units available for purchase by the occupant.

(2) **AFFORDABILITY.**—Units of varying sizes and costs shall be designed and developed under the demonstration program so that the program provides housing affordable to families of varying incomes not exceeding 115 percent of the median income for the area in which the new town demonstration area is located, including very low- and low-income families (as such terms are defined in section 3(b) of the United States Housing Act of 1937).

(3) **HOMEOWNERSHIP UNITS.**—Dwelling units developed under the demonstration program for purchase by the occupant shall initially be sold at prices affordable to families eligible to purchase such units. Such units shall be available for purchase only by families having incomes not exceeding the amount specified in paragraph (2). The demonstration shall develop 2-, 3-, and 4-bedroom units for purchase.

(4) **RENTAL UNITS.**—Dwelling units developed under the demonstration program that are to be available for rental shall include family-type units and single bedroom and efficiency units designed for elderly occupants. Such units shall be avail-



able for occupancy only by families who (upon initial occupancy) have incomes of (A) less than 60 percent of the median income for the area, or (B) less than \$20,000. Occupant families shall pay not more than 30 percent of the family income for rent.

(d) **SOCIAL SERVICES.**—The demonstration program shall provide for appropriate social and supportive services to be made available to residents of housing assisted under the demonstration program and to other residents of the new town demonstration area, which may include rental and homeownership counseling, child care, job placement, educational programs, recreational and health care facilities and programs, and other appropriate services.

(e) **JOB CREATION AND TRAINING.**—The demonstration program shall provide, to the extent practicable, that activities in connection with the demonstration program, including development of housing under subsection (c) and community development activities assisted under section 1106, shall employ and provide job training opportunities for residents of the housing assisted under the demonstration program and other residents of the new town demonstration area.

(f) **FINANCING.**—The demonstration program shall provide for coordination with banks, credit unions, and other mortgage lenders to make financing available to purchasers of units developed under the demonstration program through mortgages eligible for insurance under section 1104, and shall give preference to such mortgage lenders who have offices located within or near the new town demonstration area.

(g) **SUPPORT FACILITIES.**—The demonstration program shall encourage, facilitate, and provide for development of appropriate support facilities to serve residents in the housing developed under the program, including infrastructure and commercial facilities.

(h) **NON-FEDERAL FUNDS.**—The governing board carrying out the demonstration program shall ensure that not less than 25 percent of the total amounts used to carry out the demonstration program is provided from non-Federal sources, including State or local government funds, any salary paid to staff to carry out the demonstration program, the value of any time, services, and materials donated to carry out the program, the value of any donated building, and the value of any lease on a building.

#### **SEC. 1104. FEDERAL MORTGAGE INSURANCE.**

(a) **IN GENERAL.**—Pursuant to title II and section 251 of the National Housing Act, the Secretary shall (to the extent authority is available pursuant to subsection (d)) insure mortgages under this section involving properties upon which are located dwelling units described in section 1103(c)(3) of this Act that are developed under the new town demonstration programs carried out pursuant to this title.

(b) **MORTGAGE TERMS.**—Mortgages insured under this section shall—

(1) provide for periodic adjustments in the effective rate of interest charged, which—

(A) for the first 5 years of the mortgage, shall be an annual rate of not more than 7 percent; and

(B) after the expiration of such 5-year period, may increase on an annual basis, but—

(i) shall be limited, with respect to any single interest rate increase, to not more than a 10-percent increase in the annual percentage rate; and

(ii) may not be increased at any time to a rate greater than the rate necessary at such time to fully amortize the outstanding loan balance over the term of the mortgage; and

(2) have a maturity of 35 years from the date of the beginning of the amortization of the mortgage.

(c) **BOARD APPROVAL.**—The Secretary may provide insurance under this section for a mortgage only if the governing board for the demonstration program for the new town demonstration area in which the property subject to the mortgage is located has indicated to the Secretary approval of the mortgage in connection with the demonstration program.

(d) **INSURANCE AUTHORITY.**—To the extent provided in appropriation Acts, the Secretary shall use any authority provided pursuant to section 531(b) of the National Housing Act to enter into commitments to insure loans and mortgages under this section in fiscal years 1993 and 1994 with an aggregate principal amount not exceeding such sums as may be necessary to carry out the demonstration under this title. Mortgages insured under this section shall not be considered for purposes of the aggregate limitation on the number of mortgages insured under section 251 of the National Housing Act specified in subsection (c) of such section.

#### **SEC. 1105. SECONDARY SOFT MORTGAGE FINANCING FOR HOUSING.**

(a) **IN GENERAL.**—The Secretary shall, to the extent amounts are provided in appropriation Acts under subsection (e), provide assistance under this section through the governing boards carrying out the new town demonstration programs under this section to assist in the development of housing under the program.

(b) **USE.**—Any assistance provided under this section shall be used only for costs in planning, developing, constructing, and rehabilitating housing under the demonstration program available for rental or purchase by the occupant. The governing board shall determine, according to the new town plan for the demonstration program, the allocation of amounts of assistance provided under this section.

(c) **AMOUNT.**—The Secretary may not provide assistance under this section for the development of housing under a demonstration program in an amount exceeding \$50,000 per dwelling unit assisted.

(d) **SECOND MORTGAGE.**—

(1) **IN GENERAL.**—Assistance under this section shall be repaid in accordance with this subsection. Repayment of the amount of any assistance provided with respect to—

(A) any building containing rental units, or

(B) any dwelling unit available for purchase by the occupant that is developed under a demonstration program, shall be secured by a second mortgage held by the Secretary on the property involved.

(2) **TERMS.**—During the period ending upon repayment of the assistance as provided in this subsection, any building containing rental units that is provided assistance under this section shall be used as rental housing subject to the requirements of section 1103(c)(4). During the period ending upon repayment of the assistance as provided in this subsection, any dwelling unit made available for purchase by the occupant that is provided assistance under this section may be sold

only to a family having an income not exceeding the amount specified in section 1103(c)(2).

(3) **INTEREST.**—Any assistance provided under this section for a building or dwelling unit shall bear interest at a rate equivalent to the rate for the most recently marketable obligations issued by the United States Treasury have terms of 10 years. The interest on such assistance shall be required to be repaid only upon sale of the building.

(4) **DISCOUNTED REPAYMENT.**—The assistance provided under this section for any building containing rental units or any dwelling unit available for purchase by the occupant shall be considered to have been repaid for purposes of this subsection if the original purchaser of the building or the dwelling unit pays to the Secretary an amount equal to 50 percent of the amount of the assistance provided under this section.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated for fiscal years 1993 and 1994 such sums as may be necessary for providing assistance under this section.

#### **SEC. 1106. COMMUNITY DEVELOPMENT ASSISTANCE.**

(a) **IN GENERAL.**—The Secretary shall provide assistance under this section, to the extent amounts are provided in appropriation Acts under subsection (h), to units of general local government to address vital unmet needs and to promote the creation of jobs and economic development in connection with the new town demonstration programs carried out under this title.

(b) **ELIGIBLE UNITS OF GENERAL LOCAL GOVERNMENT.**—Assistance may be provided under this section only to units of general local government—

(1) within whose boundaries are located any portion of the new town demonstration areas described under the new town demonstration plans for the demonstration programs carried out under this title;

(2) that make the certifications to the Secretary required under subsection (c); and

(3) that will comply with a residential antidisplacement and relocation assistance plan described in subsection (d).

(c) **REQUIRED CERTIFICATIONS.**—The certifications referred to in subsection (b)(2) shall be certifications that—

(1) the assistance will be conducted and administered in conformity with the Civil Rights Act of 1964 and the Civil Rights Act of 1968, and the unit of general local government will affirmatively further fair housing;

(2) the projected use of funds has been developed in a manner that gives maximum feasible priority to activities which are designed to meet community development needs that have been delayed because of the lack of fiscal resources of the unit of general local government or which are designed to address conditions that pose a serious and immediate threat to the health or welfare of the community;

(3) any projected use of funds for public services will benefit primarily low- and moderate-income families;

(4) the unit of general local government will not attempt to recover any capital costs of public improvements assisted in whole or part under this section by assessing any amount against properties owned and occupied by persons of low- and moderate-income, including any fee charged or assessment

made as a condition of obtaining access to such public improvements, unless—

(A) funds received under this section are used to pay the proportion of such fee or assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than under this section; or

(B) for purposes of assessing any amount against properties owned and occupied by persons of moderate income, the grantee certifies to the Secretary that it lacks sufficient funds received under this section to comply with the requirements of subparagraph (A); and

(5) the unit of general local government will comply with the other provisions of this title and with other applicable laws.

(d) ANTIDISPLACEMENT AND RELOCATION PLAN.—

(1) CONTENTS.—The residential antidisplacement and relocation assistance plan referred to in subsection (b)(3) shall, in connection with activities assisted under this section—

(A) provide that, in the event of such displacement—

(i) governmental agencies or private developers shall provide, within the same community, comparable replacement dwellings for the same number of occupants as could have been housed in the occupied and vacant occupiable low- and moderate-income dwelling units demolished or converted to a use other than for housing for low- and moderate-income persons, and provide that such replacement housing may include existing housing assisted with project based assistance provided under section 8 of the United States Housing Act of 1937;

(ii) such comparable replacement dwellings shall be designed to remain affordable to persons of low- and moderate-income for 10 years from the time of initial occupancy;

(iii) relocation benefits shall be provided for all low- or moderate-income persons who occupied housing demolished or converted to a use other than for low- or moderate-income housing, including reimbursement for actual and reasonable moving expenses, security deposits, credit checks, and other moving-related expenses, including any interim living costs; and in the case of displaced persons of low- and moderate-income, provide either—

(I) compensation sufficient to ensure that, for a 5-year period, the displaced families shall not bear, after relocation, a ratio of shelter costs to income that exceeds 30 percent; or

(II) if elected by a family, a lump-sum payment equal to the capitalized value of the benefits available under subclause (I) to permit the household to secure participation in a housing cooperative or mutual housing association; and

(iv) persons displaced shall be relocated into comparable replacement housing that is—

(I) decent, safe, and sanitary;

(II) adequate in size to accommodate the occupants;

(III) functionally equivalent; and

(IV) in an area not subject to unreasonably adverse environmental conditions; and

(B) provide that persons displaced shall have the right to elect, as an alternative to the benefits under this subsection, to receive benefits under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 if such persons determine that it is in their best interest to do so; and

(C) provide that where a claim for assistance under subparagraph (A)(iv) is denied by the unit of general local government, the claimant may appeal to the Secretary, and that the decision of the Secretary shall be final unless a court determines the decision was arbitrary and capricious.

(2) EXCEPTION.—Paragraphs (1)(A)(i) and (1)(A)(ii) shall not apply in any case in which the Secretary finds, on the basis of objective data, that there is available in the area an adequate supply of habitable affordable housing for low- and moderate-income persons. A determination under this paragraph shall be final and nonreviewable.

(e) ELIGIBLE ACTIVITIES.—Activities assisted with amounts provided under this section may include only the following activities:

(1) ACQUISITION OF REAL PROPERTY.—The acquisition of real property (including air rights, water rights, and other interests therein) that is located within the new town demonstration area and is—

(A) blighted, deteriorated, undeveloped, or inappropriately developed from the standpoint of sound community development and growth;

(B) appropriate for rehabilitation activities;

(C) appropriate for the preservation or restoration of historic sites, the beautification of urban land, the conservation of open spaces, natural resources, and scenic areas, the provision of recreational opportunities, or the guidance of urban development;

(D) to be used for the provision of public works, facilities, and improvements eligible for assistance under this section;

(E) to be used as a facility for coordinating and providing activities and services for high risk youth (as such term is defined in section 509A of the Public Health Service Act); or

(F) to be used for other public purposes.

(2) CONSTRUCTION OF PUBLIC WORKS AND FACILITIES.—The acquisition, construction, rehabilitation, or installation of public works or public facilities within the new town demonstration area, including buildings for the general conduct of government and facilities for coordinating and providing activities and services for high risk youth (as such term is defined in section 509A of the Public Health Service Act).

(3) CLEARANCE AND REHABILITATION OF BUILDINGS.—The clearance, removal, and rehabilitation of buildings and improvements located within the new town demonstration area, including interim assistance, assistance for facilities for coordinating

and providing activities and services for high risk youth (as such term is defined in section 509A of the Public Health Service Act), and assistance to privately owned buildings and improvements.

**(4) PROVISION OF PUBLIC SERVICES AND HOUSING.—**

**(A) PUBLIC SERVICES.**—The provision of public services within the new town demonstration area that are concerned with job training and retraining, health care and education, crime prevention, drug abuse treatment and rehabilitation, child care, education, and recreation, which may include the provision of public health and public safety vehicles.

**(B) HOUSING ACTIVITIES.**—The acquisition and rehabilitation of housing for low- and moderate-income families within the new town demonstration area, except that any grantee that uses amounts received under this section for housing activities under this subparagraph shall make not less than 15 percent of the amount used for such housing activities available only for community housing development organizations and nonprofit organizations (as such terms are defined in section 104 of the Cranston-Gonzalez National Affordable Housing Act) for such activities;

**(C) LIMITATION.**—Not more than 25 percent of the amount of any assistance provided under this section (including program income) to any unit of general local government may be used for activities under this paragraph.

**(5) RELOCATION ASSISTANCE.**—Relocation payments and assistance for individuals, families, business, and organizations that are displaced as a result of activities assisted under this title.

**(6) PAYMENT OF ADMINISTRATIVE EXPENSES.**—Payment of reasonable administrative costs associated with activities assisted under this section and any expenses of developing the new town plan under section 1102.

**(f) ALLOCATION OF ASSISTANCE.**—The Secretary may not provide more than 50 percent of any amounts appropriated under this section in connection with any one of the 2 new town demonstration programs carried out under this title.

**(g) OTHER REQUIREMENTS.**—The provisions of subsections (f), (g), and (h) of section 104, subsections (c) and (d) of section 105, section 107, 108, 109, and 110 of the bill, H.R. 4073, 102d Congress (as reported on March 14, 1992, by the Committee on Banking, Finance and Urban Affairs of the House of Representatives), shall apply to grantees receiving assistance under this section.

**(h) AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated for fiscal years 1993 and 1994 such sums as may be necessary for assistance under this section.

**SEC. 1107. GOVERNING BOARDS.**

**(a) PURPOSE.**—For purposes of this title, a governing board shall be a board organized for the purpose of developing a new town plan under this title and carrying out a new town development demonstration under this title.

**(b) MEMBERSHIP.**—Each governing board shall consist of not less than 10 members, who shall include—

- (1) residents of the area in which the new town demonstration area under the plan developed by the board is located;
- (2) owners of business in such area;
- (3) leaders or participants in community groups in such area; and
- (4) representatives of financial institutions located or having offices in such area.

(c) ORGANIZATION.—A governing board may organize itself and conduct business in the manner that the board determines is appropriate to carry out the new town development demonstration under this title.

#### SEC. 1108. REPORTS.

Each governing board carrying out a new town development demonstration under this title shall submit to the Congress the following information:

(1) NEW TOWN PLAN.—Upon approval of the new town plan of the governing board under section 1102(d), a copy of the approved plan.

(2) ANNUAL REPORTS.—For the 5-year period beginning upon the approval of the new town plan, annual reports for each 12-month period during such 5-year period, which shall be submitted within 3 months after the expiration of the 12-month period. Each report shall include a description of any activities during such period to carry out the demonstration program of the governing board, the use during such period of any assistance provided under this title, and any amendments under section 1102(d)(4) to the new town plan approved during such period.

#### SEC. 1109. DEFINITIONS.

For purposes of this title:

(1) DEMONSTRATION PROGRAM.—The terms “demonstration program” and “program” mean a new town development demonstration program receiving assistance under this title, which is carried out within a new town demonstration area by a governing board.

(2) GOVERNING BOARD.—The term “governing board” means a board established under section 1107.

(3) NEW TOWN DEMONSTRATION AREA.—The term “new town demonstration area” means the area defined in a new town plan in which the new town development demonstration under the plan is to be carried out.

(4) NEW TOWN PLAN.—The terms “new town plan” and “plan” mean a plan under section 1102 developed by a governing board.

(5) UNIT OF GENERAL LOCAL GOVERNMENT.—The term “unit of general local government” means any city, county, town, township, parish, village, or other general purpose political subdivision of the State of California.

Removal of  
Regulatory  
Barriers to  
Affordable  
Housing Act of  
1992.  
Inter-  
governmental  
relations.  
42 USC 12705a  
note.  
42 USC 12705a.

## TITLE XII—REMOVAL OF REGULATORY BARRIERS TO AFFORDABLE HOUSING

### SEC. 1201. SHORT TITLE.

This title may be cited as the "Removal of Regulatory Barriers to Affordable Housing Act of 1992".

### SEC. 1202. PURPOSES.

The purposes of this title are—

(1) to encourage State and local governments to further identify and remove regulatory barriers to affordable housing (including barriers that are excessive, unnecessary, duplicative, or exclusionary) that significantly increase housing costs and limit the supply of affordable housing; and

(2) to strengthen the connection between Federal housing assistance and State and local efforts to identify and eliminate regulatory barriers.

42 USC 12705b.

### SEC. 1203. DEFINITION OF REGULATORY BARRIERS TO AFFORDABLE HOUSING.

For purposes of this title, the terms "regulatory barriers to affordable housing" and "regulatory barriers" mean any public policies (including policies embodied in statutes, ordinances, regulations, or administrative procedures or processes) required to be identified by a jurisdiction in connection with its comprehensive housing affordability strategy under section 105(b)(4) of the Cranston-Gonzalez National Affordable Housing Act. Such terms do not include policies relating to rents imposed on a structure by a jurisdiction or policies that have served to create or preserve, or can be shown to create or preserve, housing for low- and very low-income families, including displacement protections, demolition controls, replacement housing requirements, relocation benefits, housing trust funds, dedicated funding sources, waiver of local property taxes and builder fees, inclusionary zoning, rental zoning overlays, long-term use restrictions, and rights of first refusal.

42 USC 12705c.

### SEC. 1204. GRANTS FOR REGULATORY BARRIER REMOVAL STRATEGIES AND IMPLEMENTATION.

(a) **IN GENERAL.**—The amounts set aside under section 107 of the Housing and Community Development Act of 1974 for the purpose of this subsection shall be available for grants under subsection (b) and (c).

(b) **STATE GRANTS.**—The Secretary may make grants to States for the costs of developing and implementing strategies to remove regulatory barriers to affordable housing, including the costs of—

(1) identifying, assessing, and monitoring State and local regulatory barriers;

(2) identifying State and local policies (including laws and regulations) that permit or encourage regulatory barriers;

(3) developing legislation to provide a State program to reduce State and local regulatory barriers and developing a strategy for adoption of such legislation;

(4) developing model State standards and ordinances to reduce regulatory barriers and assisting in the adoption and use of the standards and ordinances;



(5) carrying out the simplification and consolidation of State administrative procedures and processes constituting regulatory barriers to affordable housing, including the issuance of permits; and

(6) providing technical assistance and information to units of general local government for implementation of legislative and administrative reform programs to remove regulatory barriers to affordable housing.

(c) LOCAL GRANTS.—The Secretary may make grants to units of general local government for the costs of developing and implementing strategies to remove regulatory barriers to affordable housing, including the costs of—

(1) identifying, assessing, and monitoring local regulatory barriers;

(2) identifying local policies (including laws and regulations) that permit or encourage regulatory barriers;

(3) developing legislation to provide a local program to reduce local regulatory barriers and developing a strategy for adoption of such legislation;

(4) developing model local standards and ordinances to reduce regulatory barriers and assisting in the adoption and use of the standards and ordinances; and

(5) carrying out the simplification and consolidation of local administrative procedures and processes constituting regulatory barriers to affordable housing, including the issuance of permits.

(d) DEFINITION.—For purposes of this section, the terms “regulatory barriers to affordable housing” and “regulatory barriers” have the meaning given such terms in section 1203.

(e) APPLICATION AND SELECTION.—The Secretary shall provide for the form and manner of applications for grants under this section, which shall describe how grant amounts will assist the State or unit of general local government in developing and implementing strategies to remove regulatory barriers to affordable housing. The Secretary shall establish criteria for approval of applications under this subsection and for the selection of units of general local government to receive grants under subsection (f)(2).

(f) ALLOCATION OF AMOUNTS.—

(1) STATE GRANTS.—

(A) IN GENERAL.—Of the total amount appropriated for each fiscal year to carry out this subsection, the Secretary shall use two-thirds of such amount to provide grants under subsection (b) to each State submitting an application that is approved by the Secretary. Such amounts shall be allocated among the States based upon the measure of need (for the whole State) of each State, as determined under section 217(b)(1)(A) (excluding adjustments under section 217(b)(1)(D)) of the Cranston-Gonzalez National Affordable Housing Act, except that the minimum grant amount for each fiscal year grant shall be \$100,000 (to the extent sufficient amounts are made available).

(B) PRO RATA DISTRIBUTION.—If insufficient amounts are made available for grants in the amount under subparagraph (A) to each State submitting an approved application, each such State shall receive a pro rata portion of such

amount based on the ratio of the population of such State to the population of all States.

(2) **LOCAL GRANTS.**—Of the total amount appropriated for each fiscal year to carry out this section, the Secretary shall use one-third of such amount to provide grants on a competitive basis to units of general local government based on the proposed uses of such amounts, as provided in the application. Each grant made with such amounts shall be in an amount not less than \$10,000.

(g) **COORDINATION WITH CLEARINGHOUSE.**—Each State and unit of general local government receiving a grant under this section, shall consult, coordinate, and exchange information with the clearinghouse established under section 1205.

(h) **REPORTS TO SECRETARY.**—Each State and unit of general local government receiving a grant under this section shall submit a report to the Secretary, not less than 12 months after receiving the grant, describing any activities carried out with the grant amounts. The report shall contain an assessment of the impact of any regulatory barriers identified by the grantee on the housing patterns of minorities.

(i) **CONFORMING AMENDMENTS.**—The first sentence of section 106(d)(1) of the Housing and Community Development Act of 1974 (42 U.S.C. 5306(d)(1)) is amended by striking “for grants” and all that follows through “(2)” and inserting “that remains after allocations pursuant to paragraphs (1) and (2) of subsection (a)”.

42 USC 12705d.

**SEC. 1205. REGULATORY BARRIERS CLEARINGHOUSE.**

(a) **ESTABLISHMENT.**—The Secretary of Housing and Urban Development shall establish a clearinghouse to receive, collect, process, and assemble information regarding—

(1) State and local laws, regulations, and policies affecting the development, maintenance, improvement, availability, or cost of affordable housing, including tax policies affecting land and other property, land use controls, zoning ordinances, building codes, fees and charges, growth limits, and policies that affect the return on investment in residential property;

(2) State and local activities, strategies, and plans to remove or ameliorate the negative effects, if any, of such laws, regulations, and policies; and

(3) State and local strategies, activities and plans that promote affordable housing and housing desegregation.

(b) **FUNCTIONS.**—The clearinghouse established under subsection (a) shall—

(1) respond to inquiries from State and local governments, other organizations, and individuals requesting information regarding State and local laws, regulations, policies, activities, strategies, and plans described in subsection (a); and

(2) provide assistance in identifying, examining, and understanding such laws, regulations, policies, activities, strategies, and plans.

**SEC. 1206. SUBSTANTIALLY EQUIVALENT FEDERAL AND STATE BARRIER ASSESSMENT REMOVAL REQUIREMENTS.**

Section 105(b)(4) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705(b)(4)) is amended by inserting before the semicolon at the end the following: “, except that, if a State requires a unit of general local government to submit a regulatory barrier assessment that is substantially equivalent to the informa-

tion required under this paragraph, as determined by the Secretary, the unit of general local government may submit its assessment submitted to the State to the Secretary and shall be considered to have complied with this paragraph”.

**SEC. 1207. REPORTS BY SECRETARY.**

42 USC 12705a  
note.

Not later than 2 years after the date of enactment of this Act, the Secretary of Housing and Urban Development shall submit a report to the Congress. The report shall—

- (1) describe any successful State and local strategies for the removal of barriers to affordable housing;
- (2) assess the impact of identified regulatory barriers on the housing patterns of minorities; and
- (3) describe any strategies developed or implemented by the Department of Housing and Urban Development for reducing barriers to affordable housing imposed by the Federal Government.

## **TITLE XIII—GOVERNMENT SPONSORED ENTERPRISES**

Federal  
Housing  
Enterprises  
Financial  
Safety and  
Soundness Act  
of 1992.  
12 USC 4501  
note.

**SEC. 1301. SHORT TITLE.**

This title may be cited as the “Federal Housing Enterprises Financial Safety and Soundness Act of 1992”.

**SEC. 1302. CONGRESSIONAL FINDINGS.**

12 USC 4501.

The Congress finds that—

- (1) the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation (referred to in this section collectively as the “enterprises”), and the Federal Home Loan Banks (referred to in this section as the “Banks”), have important public missions that are reflected in the statutes and charter Acts establishing the Banks and the enterprises;
- (2) because the continued ability of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation to accomplish their public missions is important to providing housing in the United States and the health of the Nation's economy, more effective Federal regulation is needed to reduce the risk of failure of the enterprises;
- (3) considering the current operating procedures of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Federal Home Loan Banks, the enterprises and the Banks currently pose low financial risk of insolvency;
- (4) neither the enterprises nor the Banks, nor any securities or obligations issued by the enterprises or the Banks, are backed by the full faith and credit of the United States;
- (5) an entity regulating the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation should have sufficient autonomy from the enterprises and special interest groups;
- (6) an entity regulating such enterprises should have the authority to establish capital standards, require financial disclosure, prescribe adequate standards for books and records and other internal controls, conduct examinations when necessary,

and enforce compliance with the standards and rules that it establishes;

(7) the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation have an affirmative obligation to facilitate the financing of affordable housing for low- and moderate-income families in a manner consistent with their overall public purposes, while maintaining a strong financial condition and a reasonable economic return; and

(8) the Federal Home Loan Bank Act should be amended to emphasize that providing for financial safety and soundness of the Federal Home Loan Banks is the primary mission of the Federal Housing Finance Board.

12 USC 4502.

#### SEC. 1303. DEFINITIONS.

For purposes of this title:

(1) **AFFILIATE.**—Except as provided by the Director, the term “affiliate” means any entity that controls, is controlled by, or is under common control with, an enterprise.

(2) **CAPITAL DISTRIBUTION.**—

(A) **IN GENERAL.**—The term “capital distribution” means—

(i) any dividend or other distribution in cash or in kind made with respect to any shares of, or other ownership interest in, an enterprise, except a dividend consisting only of shares of the enterprise;

(ii) any payment made by an enterprise to repurchase, redeem, retire, or otherwise acquire any of its shares, including any extension of credit made to finance an acquisition by the enterprise of such shares; and

(iii) any transaction that the Director determines by regulation to be, in substance, the distribution of capital.

(B) **EXCEPTION.**—Any payment made by an enterprise to repurchase its shares for the purpose of fulfilling an obligation of the enterprise under an employee stock ownership plan that is qualified under section 401 of the Internal Revenue Code of 1986 or any substantially equivalent plan, as determined by the Director, shall not be considered a capital distribution.

(3) **COMPENSATION.**—The term “compensation” means any payment of money or the provision of any other thing of current or potential value in connection with employment.

(4) **CORE CAPITAL.**—The term “core capital” means, with respect to an enterprise, the sum of the following (as determined in accordance with generally accepted accounting principles):

(A) The par or stated value of outstanding common stock.

(B) The par or stated value of outstanding perpetual, noncumulative preferred stock.

(C) Paid-in capital.

(D) Retained earnings.

The core capital of an enterprise shall not include any amounts that the enterprise could be required to pay, at the option of investors, to retire capital instruments.

(5) **DIRECTOR.**—The term “Director” means the Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development.

(6) **ENTERPRISE.**—The term “enterprise” means—

(A) the Federal National Mortgage Association and any affiliate thereof; and

(B) the Federal Home Loan Mortgage Corporation and any affiliate thereof.

(7) **EXECUTIVE OFFICER.**—The term “executive officer” means, with respect to an enterprise, the chairman of the board of directors, chief executive officer, chief financial officer, president, vice chairman, any executive vice president, and any senior vice president in charge of a principal business unit, division, or function.

(8) **LOW-INCOME.**—The term “low-income” means—

(A) in the case of owner-occupied units, income not in excess of 80 percent of area median income; and

(B) in the case of rental units, income not in excess of 80 percent of area median income, with adjustments for smaller and larger families, as determined by the Secretary.

(9) **MEDIAN INCOME.**—The term “median income” means, with respect to an area, the unadjusted median family income for the area, as determined and published annually by the Secretary.

(10) **MODERATE-INCOME.**—The term “moderate-income” means—

(A) in the case of owner-occupied units, income not in excess of area median income; and

(B) in the case of rental units, income not in excess of area median income, with adjustments for smaller and larger families, as determined by the Secretary.

(11) **MORTGAGE PURCHASES.**—The term “mortgage purchases” includes mortgages purchased for portfolio or securitization.

(12) **MULTIFAMILY HOUSING.**—The term “multifamily housing” means a residence consisting of more than 4 dwelling units.

(13) **NEW PROGRAM.**—The term “new program” means any program for the purchasing, servicing, selling, lending on the security of, or otherwise dealing in, conventional mortgages that—

(A) is significantly different from programs that have been approved under this Act or that were approved or engaged in by an enterprise before the date of the enactment of this Act; or

(B) represents an expansion, in terms of the dollar volume or number of mortgages or securities involved, of programs above limits expressly contained in any prior approval.

(14) **OFFICE.**—The term “Office” means the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development.

(15) **SECRETARY.**—The term “Secretary” means the Secretary of Housing and Urban Development.

(16) **SINGLE FAMILY HOUSING.**—The term “single family housing” means a residence consisting of 1 to 4 dwelling units.

(17) **STATE.**—The term “State” means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(18) **TOTAL CAPITAL.**—The term “total capital” means, with respect to an enterprise, the sum of the following:

(A) The core capital of the enterprise;

(B) A general allowance for foreclosure losses, which—  
 (i) shall include an allowance for portfolio mortgage losses, an allowance for nonreimbursable foreclosure costs on government claims, and an allowance for liabilities reflected on the balance sheet for the enterprise for estimated foreclosure losses on mortgage-backed securities; and  
 (ii) shall not include any reserves of the enterprise made or held against specific assets.

(C) Any other amounts from sources of funds available to absorb losses incurred by the enterprise, that the Director by regulation determines are appropriate to include in determining total capital.

(19) **VERY LOW-INCOME.**—The term “very low-income” means—

(A) in the case of owner-occupied units, income not in excess of 60 percent of area median income; and

(B) in the case of rental units, income not in excess of 60 percent of area median income, with adjustments for smaller and larger families, as determined by the Secretary.

12 USC 4503.

#### **SEC. 1304. PROTECTION OF TAXPAYERS AGAINST LIABILITY.**

This title and the amendments made by this title may not be construed as obligating the Federal Government, either directly or indirectly, to provide any funds to the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, or the Federal Home Loan Banks, or to honor, reimburse, or otherwise guarantee any obligation or liability of the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, or the Federal Home Loan Banks. This title and the amendments made by this title may not be construed as implying that any such enterprise or Bank, or any obligations or securities of such an enterprise or Bank, are backed by the full faith and credit of the United States.

### **Subtitle A—Supervision and Regulation of Enterprises**

#### **PART 1—FINANCIAL SAFETY AND SOUNDNESS REGULATOR**

12 USC 4511.

#### **SEC. 1311. ESTABLISHMENT OF OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT.**

There is hereby established an office within the Department of Housing and Urban Development, which shall be known as the Office of Federal Housing Enterprise Oversight.

**SEC. 1312. DIRECTOR.**

12 USC 4512.

President.

(a) **APPOINTMENT.**—The Office shall be under the management of a Director, who shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals who are citizens of the United States, have a demonstrated understanding of financial management or oversight, and have a demonstrated understanding of mortgage security markets and housing finance. An individual may not be appointed as Director if the individual has served as an executive officer or director of an enterprise at any time during the 3-year period ending upon the nomination of such individual for appointment as Director.

(b) **TERM.**—The Director shall be appointed for a term of 5 years.

(c) **VACANCY.**—A vacancy in the position of Director shall be filled in the manner in which the original appointment was made under subsection (a).

(d) **SERVICE AFTER END OF TERM.**—A Director may serve after the expiration of the term for which the Director was appointed until a successor Director has been appointed.

(e) **DEPUTY DIRECTOR.**—

(1) **IN GENERAL.**—The Office shall have a Deputy Director who shall be appointed by the Director from among individuals who are citizens of the United States, have a demonstrated understanding of financial management or oversight, and have a demonstrated understanding of mortgage security markets and housing finance. An individual may not be appointed as Deputy Director if the individual has served as an executive officer or director of an enterprise at any time during the 3-year period ending upon the appointment of such individual as Deputy Director.

(2) **FUNCTIONS.**—The Deputy Director shall have such functions, powers, and duties as the Director shall prescribe. In the event of the death, resignation, sickness, or absence of the Director, the Deputy Director shall serve as acting Director until the return of the Director or the appointment of a successor pursuant to subsection (c).

**SEC. 1313. DUTY AND AUTHORITY OF DIRECTOR.**

12 USC 4513.

(a) **DUTY.**—The duty of the Director shall be to ensure that the enterprises are adequately capitalized and operating safely, in accordance with this title.

(b) **AUTHORITY EXCLUSIVE OF SECRETARY.**—The Director is authorized, without the review or approval of the Secretary, to make such determinations, take such actions, and perform such functions as the Director determines necessary regarding—

(1) the issuance of regulations to carry out this part, subtitle B, and subtitle C (including the establishment of capital standards pursuant to subtitle B);

(2) examinations of the enterprises under section 1317;

(3) determining the capital levels of the enterprises and classification of the enterprises within capital classifications established under subtitle B;

(4) decisions to appoint conservators for the enterprises;

(5) administrative and enforcement actions under subtitle B, actions taken under subtitle C with respect to enforcement of subtitle B, and other matters relating to safety and soundness;

(6) approval of payments of capital distributions by the enterprises under section 303(c)(2) of the Federal National Mortgage Association Charter Act and section 303(b)(2) of the Federal Home Loan Mortgage Corporation Act;

(7) requiring the enterprises to submit reports under section 1314 of this title, section 309(k) of the Federal National Mortgage Association Charter Act, and section 307(c) of the Federal Home Loan Mortgage Corporation Act;

(8) prohibiting the payment of excessive compensation by the enterprises to any executive officer of the enterprises under section 1318;

(9) the management of the Office, including the establishment and implementation of annual budgets, the hiring of, and compensation levels for, personnel of the Office, and annual assessments for the costs of the Office;

(10) conducting research and financial analysis; and

(11) the submission of reports required by the Director under this title.

(c) **AUTHORITY SUBJECT TO APPROVAL OF SECRETARY.**—Any determinations, actions, and functions of the Director not referred to in subsection (b) shall be subject to the review and approval of the Secretary.

(d) **DELEGATION OF AUTHORITY.**—The Director may delegate to officers and employees of the Office any of the functions, powers, and duties of the Director, as the Director considers appropriate.

(e) **INDEPENDENCE IN PROVIDING INFORMATION TO CONGRESS.**—The Director shall not be required to obtain the prior approval, comment, or review of any officer or agency of the United States before submitting to the Congress, or any committee or subcommittee thereof, any reports, recommendations, testimony, or comments if such submissions include a statement indicating that the views expressed therein are those of the Director and do not necessarily represent the views of the Secretary or the President.

12 USC 4514.

**SEC. 1314. AUTHORITY TO REQUIRE REPORTS BY ENTERPRISES.**

(a) **SPECIAL REPORTS AND REPORTS OF FINANCIAL CONDITION.**—

(1) **FINANCIAL CONDITION.**—The Director may require an enterprise to submit reports of financial condition and operations (in addition to the annual and quarterly reports required under section 309(k) of the Federal National Mortgage Association Charter Act and section 307(c) of the Federal Home Loan Mortgage Corporation Act).

(2) **SPECIAL REPORTS.**—The Director may also require an enterprise to submit special reports whenever, in the judgment of the Director, such reports are necessary to carry out the purposes of this title.

(3) **LIMITATION.**—The Director may not require the inclusion, in any report pursuant to paragraph (1) or (2), of any information that is not reasonably obtainable by the enterprise.

(4) **NOTICE AND DECLARATION.**—The Director shall notify the enterprise, a reasonable period in advance of the date for submission of any report under this subsection, of any specific information to be contained in the report and the date for the submission of the report. Each report under this subsection shall contain a declaration by the president, vice president, treasurer, or any other officer designated by the board of directors of the enterprise to make such declaration, that



the report is true and correct to the best of such officer's knowledge and belief.

(b) **CAPITAL DISTRIBUTIONS.**—The Director may require an enterprise to submit a report to the Director after the declaration of any capital distribution by the enterprise and before making the capital distribution. The report shall be made in such form and under such circumstances and shall contain such information as the Director shall require.

**SEC. 1315. PERSONNEL.**

12 USC 4515.

(a) **OFFICE PERSONNEL.**—The Director may appoint and fix the compensation of such officers and employees of the Office as the Director considers necessary to carry out the functions of the Director and the Office. Officers and employees may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates.

(b) **COMPARABILITY OF COMPENSATION WITH FEDERAL BANKING AGENCIES.**—In fixing and directing compensation under subsection (a), the Director shall consult with, and maintain comparability with compensation of officers and employees of the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of Thrift Supervision.

(c) **PERSONNEL OF OTHER FEDERAL AGENCIES.**—In carrying out the duties of the Office, the Director may use information, services, staff, and facilities of any executive agency, independent agency, or department on a reimbursable basis, with the consent of such agency or department.

(d) **REIMBURSEMENT OF HUD.**—The Director shall reimburse the Department of Housing and Urban Development for reasonable costs incurred by the Department that are directly related to the operations of the Office.

(e) **OUTSIDE EXPERTS AND CONSULTANTS.**—Notwithstanding any provision of law limiting pay or compensation, the Director may appoint and compensate such outside experts and consultants as the Director determines necessary to assist the work of the Office.

(f) **EQUAL OPPORTUNITY REPORT.**—Not later than the expiration of the 180-day period beginning upon the appointment of the Director under section 1312, the Director shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report containing—

(1) a complete description of the equal opportunity, affirmative action, and minority business enterprise utilization programs of the Office; and

(2) such recommendations for administrative and legislative action as the Director determines appropriate to carry out such programs.

**SEC. 1316. FUNDING.**

12 USC 4516.

(a) **ANNUAL ASSESSMENTS.**—The Director may, to the extent provided in appropriation Acts, establish and collect from the enterprises annual assessments in an amount not exceeding the amount sufficient to provide for reasonable costs and expenses of the Office, including the expenses of any examinations under section 1317. The initial annual assessment shall include any startup costs of

the Office and any anticipated costs and expenses of the Office for the following fiscal year.

(b) **ALLOCATION OF ANNUAL ASSESSMENT TO ENTERPRISES.**—

(1) **AMOUNT OF PAYMENT.**—Each enterprise shall pay to the Director a proportion of the annual assessment made pursuant to subsection (a) that bears the same ratio to the total annual assessment that the total assets of each enterprise bears to the total assets of both enterprises.

(2) **TIMING OF PAYMENT.**—The annual assessment shall be payable semiannually on September 1 and March 1 of the year for which the assessment is made.

(3) **DEFINITION.**—For the purpose of this section, the term “total assets” means, with respect to an enterprise, the sum of—

(A) on-balance-sheet assets of the enterprise, as determined in accordance with generally accepted accounting principles;

(B) the unpaid principal balance of outstanding mortgage-backed securities issued or guaranteed by the enterprise that are not included in subparagraph (A); and

(C) other off-balance-sheet obligations as determined by the Director.

(c) **DEFICIENCIES DUE TO INCREASED COSTS OF REGULATION.**—The semiannual payments made pursuant to subsection (b) by any enterprise that is not classified (for purposes of subtitle B) as adequately capitalized may be increased, as necessary, in the discretion of the Director to pay additional estimated costs of regulation of the enterprise.

(d) **SURPLUS.**—If any amount from any annual assessment collected from an enterprise remains unobligated at the end of the year for which the assessment was collected, such amount shall be credited to the assessment to be collected from the enterprise for the following year.

(e) **INITIAL SPECIAL ASSESSMENT.**—Not later than the expiration of the 30-day period beginning on the date of the enactment of this Act, the enterprises shall each pay into the Federal Housing Enterprises Oversight Fund established under subsection (f) an initial assessment of \$1,500,000 to cover the startup costs of the Office, including space and modifications thereof, capital equipment, supplies, recruitment, and activities of the Office during the period preceding the first annual assessment under subsection (a). Any amounts collected from an enterprise under this subsection shall be credited against the first annual assessment collected pursuant to subsection (a), and are hereby appropriated, and shall be available and used, without fiscal year limitation, as provided in this section.

(f) **FUND.**—There is established in the Treasury of the United States a fund to be known as the Federal Housing Enterprises Oversight Fund. Any assessments collected pursuant to this section shall be deposited in the Fund. Amounts in the Fund shall be available, to the extent provided in appropriation Acts and subsection (e), for—

(1) carrying out the responsibilities of the Director relating to the enterprises; and

(2) necessary administrative and nonadministrative expenses of the Office to carry out the purposes of this title.

(g) **BUDGET AND FINANCIAL REPORTS.**—

(1) **FINANCIAL OPERATING PLANS AND FORECASTS.**—Before the beginning of each fiscal year, the Director shall submit a copy of the financial operating plans and forecasts for the Office to the Secretary and the Director of the Office of Management and Budget.

(2) **REPORTS OF OPERATIONS.**—As soon as practicable after the end of each fiscal year and each quarter thereof, the Director shall submit a copy of the report of the results of the operations of the Office during such period to the Secretary and the Director of the Office of Management and Budget.

(3) **INCLUSION IN PRESIDENT'S BUDGET.**—The annual plans, forecasts, and reports required under this subsection shall be included (A) in the Budget of the United States in the appropriate form, and (B) in the congressional justifications of the Department of Housing and Urban Development for each fiscal year in a form determined by the Secretary.

#### SEC. 1317. EXAMINATIONS.

12 USC 4517.

(a) **ANNUAL EXAMINATION.**—The Director shall annually conduct an on-site examination under this section of each enterprise to determine the condition of the enterprise for the purpose of ensuring its financial safety and soundness.

(b) **OTHER EXAMINATIONS.**—In addition to annual examinations under subsection (a), the Director may conduct an examination under this section whenever the Director determines that an examination is necessary to determine the condition of an enterprise for the purpose of ensuring its financial safety and soundness.

(c) **EXAMINERS.**—The Director shall appoint examiners to conduct examinations under this section. The Director may contract with the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, or the Director of the Office of Thrift Supervision for the services of examiners. The Director shall reimburse such agencies for any costs of providing examiners from amounts available in the Federal Housing Enterprises Oversight Fund.

Contracts.

(d) **LAW APPLICABLE TO EXAMINERS.**—The Director and each examiner shall have the same authority and each examiner shall be subject to the same disclosures, prohibitions, obligations, and penalties as are applicable to examiners employed by the Federal Reserve banks.

(e) **TECHNICAL EXPERTS.**—The Director may obtain the services of any technical experts the Director considers appropriate to provide temporary technical assistance relating to examinations to the Director, officers, and employees of the Office. The Director shall describe, in the record of each examination, the nature and extent of any such temporary technical assistance.

(f) **OATHS, EVIDENCE, AND SUBPOENA POWERS.**—In connection with examinations under this section, the Director shall have the authority provided under section 1379B.

#### SEC. 1318. PROHIBITION OF EXCESSIVE COMPENSATION.

12 USC 4518.

(a) **IN GENERAL.**—The Director shall prohibit the enterprises from providing compensation to any executive officer of the enterprise that is not reasonable and comparable with compensation for employment in other similar businesses (including other publicly held financial institutions or major financial services companies) involving similar duties and responsibilities.

(b) **PROHIBITION OF SETTING COMPENSATION.**—In carrying out subsection (a), the Director may not prescribe or set a specific level or range of compensation.

12 USC 4519.

**SEC. 1319. AUTHORITY TO PROVIDE FOR REVIEW OF ENTERPRISES BY RATING ORGANIZATION.**

The Director may, on such terms and conditions as the Director deems appropriate, contract with any entity effectively recognized by the Division of Market Regulation of the Securities and Exchange Commission as a nationally recognized statistical rating organization for the purposes of the capital rules for broker-dealers, to conduct a review of the enterprises.

Minorities.

Women.

12 USC 4520.

**SEC. 1319A. EQUAL OPPORTUNITY IN SOLICITATION OF CONTRACTS.**

(a) **IN GENERAL.**—Each enterprise shall establish a minority outreach program to ensure the inclusion (to the maximum extent possible) in contracts entered into by the enterprises of minorities and women and businesses owned by minorities and women, including financial institutions, investment banking firms, underwriters, accountants, brokers, and providers of legal services.

(b) **REPORT.**—Not later than the expiration of the 180-day period beginning on the date of the enactment of this Act, each enterprise shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report describing the actions taken by the enterprise pursuant to subsection (a).

12 USC 4521.

**SEC. 1319B. ANNUAL REPORTS BY DIRECTOR.**

(a) **GENERAL REPORT.**—The Director shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, not later than June 15 of each year, a written report, which shall include—

(1) a description of the actions taken, and being undertaken, by the Director to carry out this title;

(2) a description of the financial safety and soundness of each enterprise, including the results and conclusions of the annual examinations of the enterprises conducted under section 1317(a); and

(3) any recommendations for legislation to enhance the financial safety and soundness of the enterprises.

(b) **REPORT ON ENFORCEMENT ACTIONS.**—Not later than March 15 of each year, the Director shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a written report describing, for the preceding calendar year, the requests by the Director to the Attorney General for enforcement actions under subtitle C and describing the disposition of each request, which shall include statements of—

(1) the total number of requests made by the Director;

(2) the number of requests that resulted in the commencement of litigation by the Department of Justice;

(3) the number of requests that did not result in the commencement of litigation by the Department of Justice;

(4) with respect to requests that resulted in the commencement of litigation—

(A) the number of days between the date of the request and the commencement of the litigation; and

(B) the number of days between the date of the commencement and termination of the litigation; and

(5) the number of litigation requests pending at the beginning of the calendar year, the number of requests made during the calendar year, the number of requests for which action was completed during the calendar year, and the number of requests pending at the end of the calendar year.

**SEC. 1319C. PUBLIC DISCLOSURE OF FINAL ORDERS AND AGREEMENTS.**

12 USC 4522.

(a) **IN GENERAL.**—The Director shall make available to the public—

(1) any written agreement or other written statement for which a violation may be redressed by the Director or any modification to or termination thereof, unless the Director, in the Director's discretion, determines that public disclosure would be contrary to the public interest or determines under subsection (c) that public disclosure would seriously threaten the financial health or security of the enterprise;

(2) any order that is issued with respect to any administrative enforcement proceeding initiated by the Director under subtitle C and that has become final; and

(3) any modification to or termination of any final order made public pursuant to this subsection.

(b) **HEARINGS.**—All hearings on the record with respect to any action of the Director or notice of charges issued by the Director shall be open to the public, unless the Director, in the Director's discretion, determines that holding an open hearing would be contrary to the public interest.

(c) **DELAY OF PUBLIC DISCLOSURE UNDER EXCEPTIONAL CIRCUMSTANCES.**—If the Director makes a determination in writing that the public disclosure of any final order pursuant to subsection (a) would seriously threaten the financial health or security of the enterprise, the Director may delay the public disclosure of such order for a reasonable time.

(d) **DOCUMENTS FILED UNDER SEAL IN PUBLIC ENFORCEMENT HEARINGS.**—The Director may file any document or part thereof under seal in any hearing under subtitle C if the Director determines in writing that disclosure thereof would be contrary to the public interest.

(e) **RETENTION OF DOCUMENTS.**—The Director shall keep and maintain a record, for not less than 6 years, of all documents described in subsection (a) and all enforcement agreements and other supervisory actions and supporting documents issued with respect to or in connection with any enforcement proceeding initiated by the Director under subtitle C.

Records.

(f) **DISCLOSURES TO CONGRESS.**—This section may not be construed to authorize the withholding of any information from, or to prohibit the disclosure of any information to, the Congress or any committee or subcommittee thereof.

**SEC. 1319D. LIMITATION ON SUBSEQUENT EMPLOYMENT.**

12 USC 4523.

Neither the Director nor any former officer or employee of the Office who, while employed by the Office, was compensated at a rate in excess of the lowest rate for a position classified higher than GS-15 of the General Schedule under section 5107

of title 5, United States Code, may accept compensation from an enterprise during the 2-year period beginning on the date of separation from employment by the Office.

12 USC 4524.

**SEC. 1319E. AUDITS BY GAO.**

The Comptroller General shall audit the operations of the Office in accordance with generally accepted Government auditing standards. All books, records, accounts, reports, files, and property belonging to, or used by, the Office shall be made available to the Comptroller General. Audits under this section shall be conducted annually for the first 2 fiscal years following the date of the enactment of this Act and as appropriate thereafter.

12 USC 4525.

**SEC. 1319F. INFORMATION, RECORDS, AND MEETINGS.**

For purposes of subchapter II of chapter 5 of title 5, United States Code—

(1) the Office, and

(2) the Department of Housing and Urban Development, with respect to activities under this title, shall be considered agencies responsible for the regulation or supervision of financial institutions.

12 USC 4526.

**SEC. 1319G. REGULATIONS AND ORDERS.**

(a) **AUTHORITY.**—The Director shall issue any regulations and orders necessary to carry out the duties of the Director and to carry out this title before the expiration of the 18-month period beginning on the appointment of the Director under section 1312. Such regulations and orders shall be subject to the approval of the Secretary only to the extent provided in subsections (b) and (c) of section 1313.

(b) **NOTICE AND COMMENT.**—Any regulations issued by the Director under this section shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code.

(c) **CONGRESSIONAL REVIEW.**—The Director may not publish any regulation for comment under subsection (b) unless, not less than 15 days before it is published for comment, the Director has submitted a copy of the regulation, in the form it is intended to be proposed, to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

## **PART 2—AUTHORITY OF SECRETARY**

### **Subpart A—General Authority**

12 USC 4541.

**SEC. 1321. REGULATORY AUTHORITY.**

Except for the authority of the Director of the Office of Federal Housing Enterprise Oversight described in section 1313(b) and all other matters relating to the safety and soundness of the enterprises, the Secretary of Housing and Urban Development shall have general regulatory power over each enterprise and shall make such rules and regulations as shall be necessary and proper to ensure that this part and the purposes of the Federal National Mortgage Association Charter Act and the Federal Home Loan Mortgage Corporation Act are accomplished.

**SEC. 1322. PRIOR APPROVAL AUTHORITY FOR NEW PROGRAMS.**

12 USC 4542.

(a) **AUTHORITY.**—The Secretary shall require each enterprise to obtain the approval of the Secretary for any new program of the enterprise before implementing the program.

(b) **STANDARD FOR APPROVAL.**—

(1) **PERMANENT STANDARD.**—Except as provided in paragraph (2), the Secretary shall approve any new program of an enterprise for purposes of subsection (a) unless—

(A) for a new program of the Federal National Mortgage Association, the Secretary determines that the program is not authorized under paragraph (2), (3), (4), or (5) of section 302(b) of the Federal National Mortgage Association Charter Act, or under section 304 of such Act;

(B) for a new program of the Federal Home Loan Mortgage Corporation, the Secretary determines that the program is not authorized under section 305(a) (1), (4), or (5) of the Federal Home Loan Mortgage Corporation Act; or

(C) the Secretary determines that the new program is not in the public interest.

(2) **TRANSITION STANDARD.**—Before the date occurring 12 months after the date of the effectiveness of the regulations under section 1361(e) establishing the risk-based capital test, the Secretary shall approve any new program of an enterprise for purposes of subsection (a) unless—

(A) The Secretary makes a determination as described in paragraph (1) (A), (B), or (C); or

(B) the Director determines that the new program would risk significant deterioration of the financial condition of the enterprise.

(c) **PROCEDURE FOR APPROVAL.**—

(1) **SUBMISSION OF REQUEST.**—To obtain the approval of the Secretary for purposes of subsection (a), an enterprise shall submit to the Secretary a written request for approval of the new program that describes the program.

(2) **RESPONSE.**—The Secretary shall, not later than the expiration of the 45-day period beginning upon the submission of a request for approval, approve the request or submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report explaining the reasons for not approving the request. The Secretary may extend such period for a single additional 15-day period only if the Secretary requests additional information from the enterprise.

(3) **FAILURE TO RESPOND.**—If the Secretary fails to approve the request or fails to submit a report under paragraph (2) during the period under such paragraph, the request shall be considered to have been approved.

(4) **REVIEW OF DISAPPROVAL.**—

(A) **UNAUTHORIZED NEW PROGRAMS.**—If the Secretary submits a report under paragraph (2) of this subsection disapproving a request for approval on the grounds under subparagraph (A) or (B) of subsection (b)(1), the Secretary shall provide the enterprise submitting the request with a timely opportunity to review and supplement the administrative record.

(B) NEW PROGRAMS NOT IN PUBLIC INTEREST.—If the Secretary submits a report under paragraph (2) of this subsection disapproving a request for approval on the grounds under subsection (b)(1)(C) or (b)(2)(B), the Secretary shall provide the enterprise submitting the request notice of, and opportunity for, a hearing on the record regarding such disapproval.

12 USC 4543.

#### SEC. 1323. PUBLIC ACCESS TO MORTGAGE INFORMATION.

(a) IN GENERAL.—The Secretary shall make available to the public, in forms useful to the public (including forms accessible by computers), the data submitted by the enterprises in the reports required under section 309(m) of the Federal National Mortgage Association Charter Act or section 307(e) of the Federal Home Loan Mortgage Corporation Act.

(b) ACCESS.—

(1) PROPRIETARY DATA.—Except as provided in paragraph (2), the Secretary may not make available to the public data that the Secretary determines pursuant to section 1326 are proprietary information.

(2) EXCEPTION.—The Secretary shall not restrict access to the data provided in accordance with section 309(m)(1)(A) of the Federal National Mortgage Association Charter Act or section 307(e)(1)(A) of the Federal Home Loan Mortgage Corporation Act.

(c) FEES.—The Secretary may charge reasonable fees to cover the cost of making data available under this section to the public.

12 USC 4544.

#### SEC. 1324. ANNUAL HOUSING REPORT.

(a) IN GENERAL.—After reviewing and analyzing the reports submitted under section 309(n) of the Federal National Mortgage Association Charter Act and section 307(f) of the Federal Home Loan Mortgage Corporation Act, the Secretary shall submit a report, as part of the annual report under section 1328(a) of this title, on the extent to which each enterprise is achieving the annual housing goals established under subpart B of this part and the purposes of the enterprise established by law.

(b) CONTENTS.—The report shall—

(1) aggregate and analyze census tract data to assess the compliance of each enterprise with the central cities, rural areas, and other underserved areas housing goal and to determine levels of business in central cities, rural areas, underserved areas, low- and moderate-income census tracts, minority census tracts, and other geographical areas deemed appropriate by the Secretary;

(2) aggregate and analyze data on income to assess the compliance of each enterprise with the low- and moderate-income and special affordable housing goals;

(3) aggregate and analyze data on income, race, and gender by census tract and compare such data with larger demographic, housing, and economic trends;

(4) examine actions that each enterprise has undertaken or could undertake to promote and expand the annual goals established under sections 1332, 1333, and 1334, and the purposes of the enterprise established by law;

(5) examine the primary and secondary multifamily housing mortgage markets and describe—

(A) the availability and liquidity of mortgage credit;



(B) the status of efforts to provide standard credit terms and underwriting guidelines for multifamily housing and to securitize such mortgage products; and

(C) any factors inhibiting such standardization and securitization;

(6) examine actions each enterprise has undertaken and could undertake to promote and expand opportunities for first-time homebuyers; and

(7) describe any actions taken under section 1325(5) with respect to originators found to violate fair lending procedures.

#### **SEC. 1325. FAIR HOUSING.**

12 USC 4545.  
Regulations.

The Secretary shall—

(1) by regulation, prohibit each enterprise from discriminating in any manner in the purchase of any mortgage because of race, color, religion, sex, handicap, familial status, age, or national origin, including any consideration of the age or location of the dwelling or the age of the neighborhood or census tract where the dwelling is located in a manner that has a discriminatory effect;

(2) by regulation, require each enterprise to submit data to the Secretary to assist the Secretary in investigating whether a mortgage lender with which the enterprise does business has failed to comply with the Fair Housing Act;

(3) by regulation, require each enterprise to submit data to the Secretary to assist in investigating whether a mortgage lender with which the enterprise does business has failed to comply with the Equal Credit Opportunity Act, and shall submit any such information received to the appropriate Federal agencies, as provided in section 704 of the Equal Credit Opportunity Act, for appropriate action;

(4) obtain information from other regulatory and enforcement agencies of the Federal Government and State and local governments regarding violations by lenders of the Fair Housing Act and the Equal Credit Opportunity Act and make such information available to the enterprises;

(5) direct the enterprises to undertake various remedial actions, including suspension, probation, reprimand, or settlement, against lenders that have been found to have engaged in discriminatory lending practices in violation of the Fair Housing Act or the Equal Credit Opportunity Act, pursuant to a final adjudication on the record, and after opportunity for an administrative hearing, in accordance with subchapter II of chapter 5 of title 5, United States Code; and

(6) periodically review and comment on the underwriting and appraisal guidelines of each enterprise to ensure that such guidelines are consistent with the Fair Housing Act and this section.

#### **SEC. 1326. PROHIBITION OF PUBLIC DISCLOSURE OF PROPRIETARY INFORMATION.**

12 USC 4546.

(a) **IN GENERAL.**—The Secretary may, by regulation or order, provide that certain information shall be treated as proprietary information and not subject to disclosure under section 1323 of this title, section 309(n)(3) of the Federal National Mortgage Association Charter Act, or section 307(f)(3) of the Federal Home Loan Mortgage Corporation Act.

(b) **PROTECTION OF INFORMATION ON HOUSING ACTIVITIES.**—The Secretary shall not provide public access to, or disclose to the public, any information required to be submitted by an enterprise under section 309(n) of the Federal National Mortgage Association Charter Act or section 307(f) of the Federal Home Loan Mortgage Corporation Act that the Secretary determines is proprietary.

(c) **NONDISCLOSURE PENDING CONSIDERATION.**—This section may not be construed to authorize the disclosure of information to, or examination of data by, the public or a representative of any person or agency pending the issuance of a final decision under this section.

12 USC 4548.

**SEC. 1327. AUTHORITY TO REQUIRE REPORTS BY ENTERPRISES.**

The Secretary shall require each enterprise to submit reports on its activities to the Secretary as the Secretary considers appropriate.

12 USC 4548.

**SEC. 1328. REPORTS BY SECRETARY.**

(a) **ANNUAL REPORT.**—The Secretary shall, not later than June 30 of each year, submit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the activities of each enterprise.

(b) **VIEWS ON BUDGET AND FINANCIAL PLANS OF ENTERPRISES.**—On an annual basis, the Secretary shall provide the Committees referred to in subsection (a) with comments on the plans, forecasts, and reports required under section 1316(g).

## Subpart B—Housing Goals

12 USC 4561.

Regulations.

**SEC. 1331. ESTABLISHMENT.**

(a) **IN GENERAL.**—The Secretary shall establish, by regulation, housing goals under this subpart for each enterprise. The housing goals shall include a low- and moderate-income housing goal pursuant to section 1332, a special affordable housing goal pursuant to section 1333, and a central cities, rural areas, and other underserved areas housing goal pursuant to section 1334. The Secretary shall implement this subpart in a manner consistent with section 301(3) of the Federal National Mortgage Association Charter Act and section 301(b)(3) of the Federal Home Loan Mortgage Corporation Act.

(b) **CONSIDERATION OF UNITS IN MULTIFAMILY HOUSING.**—In establishing any goal under this subpart, the Secretary may take into consideration the number of housing units financed by any mortgage on multifamily housing purchased by an enterprise.

(c) **ADJUSTMENT OF HOUSING GOALS.**—Except as otherwise provided in this title, from year to year the Secretary may, by regulation, adjust any housing goal established under this subpart.

12 USC 4562.

**SEC. 1332. LOW- AND MODERATE-INCOME HOUSING GOAL.**

(a) **IN GENERAL.**—The Secretary shall establish an annual goal for the purchase by each enterprise of mortgages on housing for low- and moderate-income families. The Secretary may establish separate specific subgoals within the goal under this section and such subgoals shall not be enforceable under the provisions of section 1336, any other provision of this title, or any provision

of the Federal National Mortgage Association Charter Act or the Federal Home Loan Mortgage Corporation Act.

(b) **FACTORS TO BE APPLIED.**—In establishing the goal under this section, the Secretary shall consider—

- (1) national housing needs;
- (2) economic, housing, and demographic conditions;
- (3) the performance and effort of the enterprises toward achieving the low- and moderate-income housing goal in previous years;
- (4) the size of the conventional mortgage market serving low- and moderate-income families relative to the size of the overall conventional mortgage market;
- (5) the ability of the enterprises to lead the industry in making mortgage credit available for low- and moderate-income families; and
- (6) the need to maintain the sound financial condition of the enterprises.

(c) **USE OF BORROWER AND TENANT INCOME.**—

(1) **IN GENERAL.**—The Secretary shall monitor the performance of each enterprise in carrying out this section and shall evaluate such performance (for purposes of section 1336) based on—

(A) in the case of an owner-occupied dwelling, the mortgagor's income at the time of origination of the mortgage; or

(B) in the case of a rental dwelling—

(i) the income of the prospective or actual tenants of the property, where such data are available; or

(ii) the rent levels affordable to low- and moderate-income families, where the data referred to in clause (i) are not available.

(2) **AFFORDABILITY.**—For the purpose of paragraph (1)(B)(ii), a rent level shall be considered affordable if it does not exceed 30 percent of the maximum income level of the income categories referred to in this section, with appropriate adjustments for unit size as measured by the number of bedrooms.

(d) **TRANSITION.**—

(1) **INTERIM TARGET.**—Notwithstanding any other provision of this section, during the 2-year period beginning on January 1, 1993, the annual target under this section for low- and moderate-income mortgage purchases for each enterprise shall be 30 percent of the total number of dwelling units financed by mortgage purchases of the enterprise.

(2) **INTERIM GOAL.**—During such 2-year period, the Secretary shall establish a separate annual goal for each enterprise, the achievement of which shall require—

(A) an enterprise that is not meeting the target under paragraph (1) upon January 1, 1993, to improve its performance relative to such target annually and, to the maximum extent feasible, to meet such target at the conclusion of such 2-year period; and

(B) an enterprise that is meeting the target under paragraph (1) upon January 1, 1993, to improve its performance relative to the target.

(3) **IMPLEMENTATION.**—The Secretary shall establish any requirements necessary to implement the transition provisions

under this subsection by notice, after providing the enterprises with an opportunity to review and comment not less than 30 days before the issuance of such notice. Such notice shall be issued not later than the expiration of the 90-day period beginning upon the date of the enactment of this Act and shall be effective upon issuance.

12 USC 4563.

**SEC. 1333. SPECIAL AFFORDABLE HOUSING GOAL.****(a) ESTABLISHMENT.—**

(1) **IN GENERAL.**—The Secretary shall establish a special annual goal designed to adjust the purchase by each enterprise of mortgages on rental and owner-occupied housing to meet the then-existing unaddressed needs of, and affordable to, low-income families in low-income areas and very low-income families. The special affordable housing goal established under this section for an enterprise shall not be less than 1 percent of the dollar amount of the mortgage purchases by the enterprise for the previous year.

(2) **STANDARDS.**—In establishing the special affordable housing goal for an enterprise, the Secretary shall consider—

(A) data submitted to the Secretary in connection with the special affordable housing goal for previous years;

(B) the performance and efforts of the enterprise toward achieving the special affordable housing goal in previous years;

(C) national housing needs within the categories set forth in this section;

(D) the ability of the enterprise to lead the industry in making mortgage credit available for low-income and very low-income families; and

(E) the need to maintain the sound financial condition of the enterprise.

**(b) FULL CREDIT ACTIVITIES.—**

(1) **IN GENERAL.**—The Secretary shall give full credit toward achievement of the special affordable housing goal under this section (for purposes of section 1336) to the following activities:

(A) **FEDERALLY RELATED MORTGAGES.**—The purchase or securitization of federally insured or guaranteed mortgages, if—

(i) such mortgages cannot be readily securitized through the Government National Mortgage Association or any other Federal agency;

(ii) participation of the enterprise substantially enhances the affordability of the housing subject to such mortgages; and

(iii) the mortgages involved are on housing that otherwise qualifies under such goal to be considered for purposes of such goal.

(B) **PORTFOLIOS.**—The purchase or refinancing of existing, seasoned portfolios of loans, if—

(i) the seller is engaged in a specific program to use the proceeds of such sales to originate additional loans that meet such goal; and

(ii) such purchases or refinancings support additional lending for housing that otherwise qualifies under such goal to be considered for purposes of such goal.

(C) **RTC AND FDIC LOANS.**—The purchase of direct loans made by the Resolution Trust Corporation or the Federal Deposit Insurance Corporation, if such loans—

(i) are not guaranteed by such agencies themselves or other Federal agencies;

(ii) are made with recourse provisions similar to those offered through private mortgage insurance or other conventional sellers; and

(iii) are made for the purchase of housing that otherwise qualifies under such goal to be considered for purposes of such goal.

(2) **EXCLUSION.**—No credit toward the achievement of the special affordable housing goal may be given to the purchase or securitization of mortgages associated with the refinancing of the existing enterprise portfolios.

(c) **USE OF BORROWER AND TENANT INCOME.**—

(1) **IN GENERAL.**—The Secretary shall monitor the performance of each enterprise in carrying out this section and shall evaluate such performance (for purposes of section 1336) based on—

(A) in the case of an owner-occupied dwelling, the mortgagor's income at the time of origination of the mortgage; or

(B) in the case of a rental dwelling—

(i) the income of the prospective or actual tenants of the property, where such data are available; or

(ii) the rent levels affordable to low-income and very low-income families, where the data referred to in clause (i) are not available.

(2) **AFFORDABILITY.**—For the purpose of paragraph (1)(B)(ii), a rent level shall be considered affordable if it does not exceed 30 percent of the maximum income level of the income categories referred to in this section, with appropriate adjustments for unit size as measured by the number of bedrooms.

(d) **TRANSITION.**—

(1) **FNMA MORTGAGE PURCHASES.**—Notwithstanding any other provision of this section, during the 2-year period beginning on January 1, 1993, the special affordable housing goal for the Federal National Mortgage Association shall include mortgage purchases of not less than \$2,000,000,000 (for such 2-year period), with one-half of such purchases consisting of mortgages on single family housing and one-half consisting of mortgages on multifamily housing.

(2) **FHLMC MORTGAGE PURCHASES.**—Notwithstanding any other provision of this section, during the 2-year period beginning on January 1, 1993, the special affordable housing goal for the Federal Home Loan Mortgage Corporation shall include mortgage purchases of not less than \$1,500,000,000 (for such 2-year period), with one-half of such purchases consisting of mortgages on single family housing and one-half consisting of mortgages on multifamily housing.

(3) **INCOME CHARACTERISTICS FOR MORTGAGE PURCHASES.**—

(A) **MULTIFAMILY MORTGAGES.**—The special affordable housing goals established under paragraphs (1) and (2) shall provide that, of mortgages on multifamily housing

that are purchased and contribute to the achievement of such goals—

(i) 45 percent shall be mortgages on multifamily housing affordable to low-income families; and

(ii) 55 percent shall be mortgages on multifamily housing in which—

(I) at least 20 percent of the units are affordable to families whose incomes do not exceed 50 percent of the median income for the area; or

(II) at least 40 percent of the units are affordable to very low-income families.

(B) SINGLE FAMILY MORTGAGES.—The special affordable housing goals established under paragraphs (1) and (2) shall provide that, of mortgages on single family housing that are purchased and contribute to the achievement of such goals—

(i) 45 percent shall be mortgages of low-income families who live in census tracts in which the median income does not exceed 80 percent of the area median income; and

(ii) 55 percent shall be mortgages of very low-income families.

(C) COMPLIANCE WITH SPECIAL AFFORDABLE HOUSING GOALS.—Only the portion of mortgages on multifamily housing purchased by an enterprise that are attributable to units affordable to low-income families shall contribute to the achievement of the special affordable housing goals under subparagraph (A)(ii).

(4) IMPLEMENTATION.—The Secretary shall establish any requirements necessary to implement the transition provisions under this subsection by notice, after providing the enterprises with an opportunity to review and comment not less than 30 days before the issuance of such notice. Such notice shall be issued not later than the expiration of the 90-day period beginning upon the date of the enactment of this Act and shall be effective upon issuance.

12 USC 4564.

**SEC. 1334. CENTRAL CITIES, RURAL AREAS, AND OTHER UNDERSERVED AREAS HOUSING GOAL.**

(a) IN GENERAL.—The Secretary shall establish an annual goal for the purchase by each enterprise of mortgages on housing located in central cities, rural areas, and other underserved areas. The Secretary may establish separate subgoals within the goal under this section and such subgoals shall not be enforceable under the provisions of section 1336, any other provision of this title, or any provision of the Federal National Mortgage Association Charter Act or the Federal Home Loan Mortgage Corporation Act.

(b) FACTORS TO BE APPLIED.—In establishing the housing goal under this section, the Secretary shall consider—

(1) urban and rural housing needs and the housing needs of underserved areas;

(2) economic, housing, and demographic conditions;

(3) the performance and efforts of the enterprises toward achieving the central cities, rural areas, and other underserved areas housing goal in previous years;

(4) the size of the conventional mortgage market for central cities, rural areas, and other underserved areas relative to the size of the overall conventional mortgage market;

(5) the ability of the enterprises to lead the industry in making mortgage credit available throughout the United States, including central cities, rural areas, and other underserved areas; and

(6) the need to maintain the sound financial condition of the enterprises.

(c) **LOCATION OF PROPERTIES.**—The Secretary shall monitor the performance of each enterprise in carrying out this section and shall evaluate such performance (for purposes of section 1336) based on the location of the properties subject to mortgages purchased by each enterprise.

(d) **TRANSITION.**—

(1) **INTERIM TARGET.**—Notwithstanding any other provision of this section, during the 2-year period beginning on January 1, 1993, the annual target under this section for purchases by each enterprise of mortgages on housing located in central cities shall be 30 percent of the total number of dwelling units financed by mortgage purchases of the enterprise.

(2) **INTERIM GOAL.**—During such 2-year period, the Secretary shall establish a separate annual goal for each enterprise, the achievement of which shall require—

(A) an enterprise that is not meeting the target under paragraph (1) upon January 1, 1993, to improve its performance relative to such target annually and, to the maximum extent feasible, to meet such target at the conclusion of such 2-year period; and

(B) an enterprise that is meeting the target under paragraph (1) upon January 1, 1993, to improve its performance relative to the target.

(3) **DEFINITION OF CENTRAL CITY.**—For purposes of this subsection, the term “central city” means any political subdivision designated as a central city by the Office of Management and Budget.

(4) **IMPLEMENTATION.**—The Secretary shall establish any requirements necessary to implement the transition provisions under this subsection by notice, after providing the enterprises with an opportunity to review and comment not less than 30 days before the issuance of such notice. Such notice shall be issued not later than the expiration of the 90-day period beginning upon the date of the enactment of this Act and shall be effective upon issuance.

#### **SEC. 1335. OTHER REQUIREMENTS.**

12 USC 4565.

To meet the low- and moderate-income housing goal under section 1332, the special affordable housing goal under section 1333, and the central cities, rural areas, and other underserved areas housing goal under section 1334, each enterprise shall—

(1) design programs and products that facilitate the use of assistance provided by the Federal Government and State and local governments;

(2) develop relationships with nonprofit and for-profit organizations that develop and finance housing and with State and local governments, including housing finance agencies;

(3) take affirmative steps to—

(A) assist primary lenders to make housing credit available in areas with concentrations of low-income and minority families, and

(B) assist insured depository institutions to meet their obligations under the Community Reinvestment Act of 1977,

which shall include developing appropriate and prudent underwriting standards, business practices, repurchase requirements, pricing, fees, and procedures; and

(4) develop the institutional capacity to help finance low- and moderate-income housing, including housing for first-time homebuyers.

12 USC 4566.

**SEC. 1334. MONITORING AND ENFORCING COMPLIANCE WITH HOUSING GOALS.**

**(a) IN GENERAL.—**

(1) **AUTHORITY.**—The Secretary shall monitor and enforce compliance with the housing goals established under sections 1332, 1333, and 1334, as provided in this section.

(2) **GUIDELINES.**—The Secretary shall establish guidelines to measure the extent of compliance with the housing goals, which may assign full credit, partial credit, or no credit toward achievement of the housing goals to different categories of mortgage purchase activities of the enterprises, based on such criteria as the Secretary deems appropriate.

(3) **EXTENT OF COMPLIANCE.**—In determining compliance with the housing goals established under this subpart, the Secretary—

(A) shall consider any single mortgage purchased by an enterprise as contributing to the achievement of each housing goal for which such mortgage purchase qualifies; and

(B) may take into consideration the number of housing units financed by any mortgage on housing purchased by an enterprise.

**(b) NOTICE AND DETERMINATION OF FAILURE TO MEET GOALS.—**

(1) **NOTICE.**—If the Secretary determines that an enterprise has failed, or that there is a substantial probability that an enterprise will fail, to meet any housing goal established under section 1332, 1333, or 1334, the Secretary shall provide written notice to the enterprise of such a determination, the reasons for such determination, the requirement to submit a housing plan under subsection (c) of this section, and the information on which the Secretary based the determination or imposed such requirement.

**(2) RESPONSE PERIOD.—**

(A) **IN GENERAL.**—During the 30-day period beginning on the date that an enterprise is provided notice under paragraph (1), the enterprise may submit to the Secretary any written information that the enterprise considers appropriate for consideration by the Secretary in determining whether such failure has occurred or whether the achievement of such goal was or is feasible.

(B) **EXTENDED PERIOD.**—The Secretary may extend the period under subparagraph (A) for good cause for not more than 30 additional days.



(C) **SHORTENED PERIOD.**—The Secretary may shorten the period under subparagraph (A) for good cause.

(D) **FAILURE TO RESPOND.**—The failure of an enterprise to provide information during the 30-day period under this paragraph (as extended or shortened) shall waive any right of the enterprise to comment on the proposed determination or action of the Secretary.

(3) **CONSIDERATION OF INFORMATION AND DETERMINATION.**—

(A) **IN GENERAL.**—After the expiration of the response period under paragraph (2) or upon receipt of information provided during such period by the enterprise, whichever occurs earlier, the Secretary shall determine (i) whether the enterprise has failed, or there is a substantial probability that the enterprise will fail, to meet the housing goal, and (ii) whether (taking into consideration market and economic conditions and the financial condition of the enterprise) the achievement of the housing goal was or is feasible.

(B) **CONSIDERATIONS.**—In making such determinations, the Secretary shall take into consideration any relevant information submitted by the enterprise during the response period.

(C) **NOTICE.**—The Secretary shall provide written notice to the enterprise, the Committee on Banking, Finance and Urban Affairs of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate, of—

(i) each determination that an enterprise has failed, or that there is a substantial probability that the enterprise will fail, to meet a housing goal;

(ii) each determination that the achievement of a housing goal was or is feasible; and

(iii) the reasons for each such determination.

Such notice shall respond to any information submitted during the response period.

(c) **HOUSING PLANS.**—

(1) **REQUIREMENT.**—If the Secretary finds pursuant to subsection (b), that an enterprise has failed, or that there is a substantial probability that an enterprise will fail, to meet any housing goal established under section 1332, 1333, or 1334, and that the achievement of the housing goal was or is feasible, the Secretary shall require the enterprise to submit a housing plan under this subsection for approval by the Secretary.

(2) **CONTENTS.**—Each housing plan shall be a feasible plan describing the specific actions the enterprise will take—

(A) to achieve the goal for the next calendar year;

or

(B) if the Secretary determines that there is a substantial probability that the enterprise will fail to meet a goal in the current year, to make such improvements as are reasonable in the remainder of such year.

The plan shall be sufficiently specific to enable the Secretary to monitor compliance periodically.

(3) **DEADLINE FOR SUBMISSION.**—The Secretary shall, by regulation, establish a deadline for an enterprise to submit a housing plan to the Secretary, which may not be more than 45 days after the enterprise is provided notice under subsection

Regulations.

(b)(3) that a housing plan is required. The regulations shall provide that the Secretary may extend the deadline to the extent that the Secretary determines necessary. Any extension of the deadline shall be in writing and for a time certain.

(4) **APPROVAL.**—The Secretary shall review each housing plan submitted under this subsection and, not later than 30 days after submission of the plan, approve or disapprove the plan. The Secretary may extend the period for approval or disapproval for a single additional 30-day period if the Secretary determines it necessary. The Secretary shall approve any plan that the Secretary determines is likely to succeed, and conforms with the Federal National Mortgage Association Charter Act or the Federal Home Loan Mortgage Corporation Act (as applicable), this title, and any other applicable laws and regulations.

(5) **NOTICE OF APPROVAL AND DISAPPROVAL.**—The Secretary shall provide written notice to any enterprise submitting a housing plan of the approval or disapproval of the plan (which shall include the reasons for any disapproval of the plan) and of any extension of the period for approval or disapproval.

(6) **RESUBMISSION.**—If the initial housing plan submitted by an enterprise is disapproved, the enterprise shall submit an amended plan acceptable to the Secretary within 30 days or such longer period that the Secretary determines is in the public interest.

12 USC 4567.

#### **SEC. 1337. REPORTS DURING TRANSITION.**

Each enterprise shall submit to the Secretary, the Committee on Banking, Finance and Urban Affairs of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate, a report for each transitional housing goal for the enterprise under section 1332(d), 1333(d), or 1334(d), describing the actions the enterprise plans to take to meet such goal. Each such report shall be submitted within 45 days after the establishment of the goal for which the report is submitted.

12 USC 4562  
note.

#### **SEC. 1338. EFFECTIVE DATE OF TRANSITION GOALS.**

The housing goals established under sections 1332(d), 1333(d), and 1334(d) shall not become effective until January 1, 1993.

### **Subpart C—Enforcement of Housing Goals**

12 USC 4581.

#### **SEC. 1341. CEASE-AND-DESIST PROCEEDINGS.**

(a) **GROUND S FOR ISSUANCE.**—The Secretary may issue and serve a notice of charges under this section upon an enterprise if, in the determination of the Secretary—

(1) the enterprise has failed to submit a housing plan that substantially complies with section 1336(c) within the applicable period;

(2) the enterprise is engaging or has engaged, or the Secretary has reasonable cause to believe that the enterprise is about to engage, in any failure to make a good faith effort to comply with a housing plan for the enterprise submitted and approved under section 1336(c); or

(3) the enterprise has failed to submit the information required under subsection (m) or (n) of section 309 of the Federal National Mortgage Association Charter Act, subsection

(e) or (f) of section 307 of the Federal Home Loan Mortgage Corporation Act, or section 1337 of this title.

(b) PROCEDURE.—

(1) NOTICE OF CHARGES.—Each notice of charges shall contain a statement of the facts constituting the alleged conduct and shall fix a time and place at which a hearing will be held to determine on the record whether an order to cease and desist from such conduct should issue.

(2) ISSUANCE OF ORDER.—If the Secretary finds on the record made at such hearing that any conduct specified in the notice of charges has been established (or the enterprise consents pursuant to section 1342(a)(4)), the Secretary may issue and serve upon the enterprise an order requiring the enterprise to (A) submit a housing plan in compliance with section 1336(c), (B) comply with the housing plan, or (C) provide the information required under subsection (m) or (n) of section 309 of the Federal National Mortgage Association Charter Act, subsection (e) or (f) of section 307 of the Federal Home Loan Mortgage Corporation Act, or section 1337 of this title.

(c) EFFECTIVE DATE.—An order under this section shall become effective upon the expiration of the 30-day period beginning on the service of the order upon the enterprise (except in the case of an order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable as provided in the order, except to the extent that the order is stayed, modified, terminated, or set aside by action of the Secretary or otherwise, as provided in this subpart.

(d) TRANSITION PERIOD LIMITATION.—The Secretary may not impose any cease-and-desist order under this section for any failure by an enterprise, during the 2-year period beginning on the January 1, 1993, to comply with an approved housing plan, unless the Secretary determines that the enterprise has intentionally failed to make a good faith effort to comply with the approved plan.

**SEC. 1342. HEARINGS.**

12 USC 4582.

(a) REQUIREMENTS.—

(1) VENUE AND RECORD.—Any hearing under section 1341 or 1345 shall be held on the record and in the District of Columbia.

(2) TIMING.—Any such hearing shall be fixed for a date not earlier than 30 days nor later than 60 days after service of the notice of charges under section 1341(b)(1) or determination to impose a penalty under section 1345(c)(1), unless an earlier or a later date is set by the hearing officer at the request of the enterprise served.

(3) PROCEDURE.—Any such hearing shall be conducted in accordance with chapter 5 of title 5, United States Code.

(4) FAILURE TO APPEAR.—If the enterprise served fails to appear at the hearing through a duly authorized representative, such enterprise shall be deemed to have consented to the issuance of the cease-and-desist order or the imposition of the penalty for which the hearing is held.

(b) ISSUANCE OF ORDER.—

(1) IN GENERAL.—After any such hearing, and within 90 days after the enterprise has been notified that the case has been submitted to the Secretary for final decision, the Secretary shall render the decision (which shall include findings of fact

upon which the decision is predicated) and shall issue and serve upon the enterprise an order or orders consistent with the provisions of this subpart.

(2) **MODIFICATION.**—Judicial review of any such order shall be exclusively as provided in section 1343. Unless such a petition for review is timely filed as provided in section 1343, and thereafter until the record in the proceeding has been filed as so provided, the Secretary may at any time, modify, terminate, or set aside any such order, upon such notice and in such manner as the Secretary considers proper. Upon such filing of the record, the Secretary may modify, terminate, or set aside any such order with permission of the court.

12 USC 4583.

**SEC. 1343. JUDICIAL REVIEW.**

(a) **COMMENCEMENT.**—An enterprise that is a party to a proceeding under section 1341 or 1345 may obtain review of any final order issued under such section by filing in the United States Court of Appeals for the District of Columbia Circuit, within 30 days after the date of service of such order, a written petition praying that the order of the Secretary be modified, terminated, or set aside. The clerk of the court shall transmit a copy of the petition to the Secretary.

(b) **FILING OF RECORD.**—Upon receiving a copy of a petition, the Secretary shall file in the court the record in the proceeding, as provided in section 2112 of title 28, United States Code.

(c) **JURISDICTION.**—Upon the filing of a petition, such court shall have jurisdiction, which upon the filing of the record by the Secretary shall (except as provided in the last sentence of section 1342(b)(2)) be exclusive, to affirm, modify, terminate, or set aside, in whole or in part, the order of the Secretary.

(d) **REVIEW.**—Review of such proceedings shall be governed by chapter 7 of title 5, United States Code.

(e) **ORDER TO PAY PENALTY.**—Such court shall have the authority in any such review to order payment of any penalty imposed by the Secretary under this subpart.

(f) **NO AUTOMATIC STAY.**—The commencement of proceedings for judicial review under this section shall not, unless specifically ordered by the court, operate as a stay of any order issued by the Secretary.

12 USC 4584.

**SEC. 1344. ENFORCEMENT AND JURISDICTION.**

(a) **ENFORCEMENT.**—The Secretary may request the Attorney General of the United States to bring an action in the United States District Court for the District of Columbia for the enforcement of any effective notice or order issued under section 1341 or 1345. Such court shall have jurisdiction and power to order and require compliance herewith.

(b) **LIMITATION ON JURISDICTION.**—Except as otherwise provided in this subpart, no court shall have jurisdiction to affect, by injunction or otherwise, the issuance or enforcement of any notice or order under section 1341 or 1345, or to review, modify, suspend, terminate, or set aside any such notice or order.

12 USC 4585.

**SEC. 1345. CIVIL MONEY PENALTIES.**

(a) **AUTHORITY.**—The Secretary may impose a civil money penalty, in accordance with the provisions of this section, on any enterprise that has failed—

(1) to submit a housing plan that substantially complies with section 1336(c) within the applicable period;

(2) to make a good faith effort to comply with a housing plan for the enterprise submitted and approved under section 1336(c); or

(3) to submit the information required under subsection (m) or (n) of section 309 of the Federal National Mortgage Association Charter Act, subsection (e) or (f) of section 307 of the Federal Home Loan Mortgage Corporation Act, or section 1337 of this title.

(b) AMOUNT OF PENALTY.—The amount of the penalty, as determined by the Secretary, may not exceed—

(1) for any failure described in subsection (a)(1), \$25,000 for each day that the failure occurs; and

(2) for any failure described in subsection (a) (2) or (3), \$10,000 for each day that the failure occurs.

(c) PROCEDURES.—

(1) ESTABLISHMENT.—The Secretary shall establish standards and procedures governing the imposition of civil money penalties under this section. Such standards and procedures—

(A) shall provide for the Secretary to notify the enterprise in writing of the Secretary's determination to impose the penalty, which shall be made on the record;

(B) shall provide for the imposition of a penalty only after the enterprise has been given an opportunity for a hearing on the record pursuant to section 1342; and

(C) may provide for review by the Director for any determination or order, or interlocutory ruling, arising from a hearing.

(2) FACTORS IN DETERMINING AMOUNT OF PENALTY.—In determining the amount of a penalty under this section, the Secretary shall give consideration to such factors as the gravity of the offense, any history of prior offenses, ability to pay the penalty, injury to the public, benefits received, deterrence of future violations, and such other factors as the Secretary may determine, by regulation, to be appropriate.

(d) ACTION TO COLLECT PENALTY.—If an enterprise fails to comply with an order by the Secretary imposing a civil money penalty under this section, after the order is no longer subject to review as provided by sections 1342 and 1343, the Secretary may request the Attorney General of the United States to bring an action in the United States District Court for the District of Columbia to obtain a monetary judgment against the enterprise and such other relief as may be available. The monetary judgment may, in the court's discretion, include the attorneys fees and other expenses incurred by the United States in connection with the action. In an action under this subsection, the validity and appropriateness of the order imposing the penalty shall not be subject to review.

(e) SETTLEMENT BY SECRETARY.—The Secretary may compromise, modify, or remit any civil money penalty which may be, or has been, imposed under this section.

(f) TRANSITION PERIOD LIMITATION.—The Secretary may not impose any civil money penalty under this section for any failure by an enterprise, during the 2-year period beginning on January 1, 1993, to comply with an approved housing plan, unless the

Secretary determines that the enterprise has intentionally failed to make a good faith effort to comply with an approved plan.

(g) **DEPOSIT OF PENALTIES.**—The Secretary shall deposit any civil money penalties collected under this section into the general fund of the Treasury.

12 USC 4586.

**SEC. 1346. PUBLIC DISCLOSURE OF FINAL ORDERS AND AGREEMENTS.**

(a) **IN GENERAL.**—The Secretary shall make available to the public—

(1) any written agreement or other written statement for which a violation may be redressed by the Secretary or any modification to or termination thereof, unless the Secretary, in the Secretary's discretion, determines that public disclosure would be contrary to the public interest or determines under subsection (c) that public disclosure would seriously threaten the financial health or security of the enterprise;

(2) any order that is issued with respect to any administrative enforcement proceeding initiated by the Secretary under this subpart and that has become final in accordance with sections 1342 and 1343; and

(3) any modification to or termination of any final order made public pursuant to this subsection.

(b) **HEARINGS.**—All hearings with respect to any notice of charges issued by the Secretary shall be open to the public, unless the Secretary, in the Secretary's discretion, determines that holding an open hearing would be contrary to the public interest.

(c) **DELAY OF PUBLIC DISCLOSURE UNDER EXCEPTIONAL CIRCUMSTANCES.**—If the Secretary makes a determination in writing that the public disclosure of any final order pursuant to subsection (a) would seriously threaten the financial soundness of the enterprise, the Secretary may delay the public disclosure of such order for a reasonable time.

(d) **DOCUMENTS FILED UNDER SEAL IN PUBLIC ENFORCEMENT HEARINGS.**—The Secretary may file any document or part thereof under seal in any hearing under this subpart if the Secretary determines in writing that disclosure thereof would be contrary to the public interest.

Records.

(e) **RETENTION OF DOCUMENTS.**—The Secretary shall keep and maintain a record, for not less than 6 years, of all documents described in subsection (a) and all enforcement agreements and other supervisory actions and supporting documents issued with respect to or in connection with any enforcement proceeding initiated by the Secretary under this subpart.

(f) **DISCLOSURES TO CONGRESS.**—This section may not be construed to authorize the withholding, or to prohibit the disclosure, of any information to the Congress or any committee or subcommittee thereof.

12 USC 4587.

**SEC. 1347. NOTICE OF SERVICE.**

Any service required or authorized to be made by the Secretary under this subpart may be made by registered mail or in such other manner reasonably calculated to give actual notice, as the Secretary may by regulation or otherwise provide.

12 USC 4588.

**SEC. 1348. SUBPOENA AUTHORITY.**

(a) **IN GENERAL.**—In the course of or in connection with any administrative proceeding under this subpart, the Secretary shall have the authority—

- (1) to administer oaths and affirmations;
- (2) to take and preserve testimony under oath;
- (3) to issue subpoenas and subpoenas duces tecum; and
- (4) to revoke, quash, or modify subpoenas and subpoenas duces tecum issued by the Secretary.

(b) **WITNESSES AND DOCUMENTS.**—The attendance of witnesses and the production of documents provided for in this section may be required from any place in any State at any designated place where such proceeding is being conducted.

(c) **ENFORCEMENT.**—The Secretary may request the Attorney General of the United States to bring an action in the United States district court for the judicial district in which such proceeding is being conducted, or where the witness resides or conducts business, or the United States District Court for the District of Columbia, for enforcement of any subpoena or subpoena duces tecum issued pursuant to this section. Such courts shall have jurisdiction and power to order and require compliance therewith.

(d) **FEES AND EXPENSES.**—Witnesses subpoenaed under this section shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States. Any court having jurisdiction of any proceeding instituted under this section by an enterprise may allow to any such party such reasonable expenses and attorneys fees as the court deems just and proper. Such expenses and fees shall be paid by the enterprise or from its assets.

#### **SEC. 1349. REGULATIONS.**

12 USC 4589.

The Secretary shall issue any final regulations necessary to implement the provisions of this part (not including the provisions of sections 1332(d), 1333(d), and 1334(d), relating to transition housing goals) not later than the expiration of the 18-month period beginning on the date of the enactment of this Act. Such regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code.

### **PART 3—MISCELLANEOUS PROVISIONS**

#### **SEC. 1351. AMENDMENTS TO TITLE 5, UNITED STATES CODE.**

(a) **DIRECTOR AT LEVEL II OF EXECUTIVE SCHEDULE.**—Section 5313 of title 5, United States Code, is amended by inserting at the end the following new item:

“Director of the Office of Federal Housing Enterprise Oversight, Department of Housing and Urban Development.”.

(b) **EXCLUSION FROM SENIOR EXECUTIVE SERVICE.**—Section 3132(a)(1)(D) of title 5, United States Code, is amended by inserting “the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development,” after “Farm Credit Administration,”.

#### **SEC. 1352. PROHIBITION OF MERGER OF OFFICE.**

Section 5 of the Department of Housing and Urban Development Act (42 U.S.C. 3534) is amended by adding at the end the following new subsection:

“(d) Notwithstanding any other provision of this Act, the Secretary may not merge or consolidate the Office of Federal Housing Enterprise Oversight of the Department, or any of the functions

or responsibilities of such Office, with any function or program administered by the Secretary.”

**SEC. 1353. PROTECTION OF CONFIDENTIAL INFORMATION.**

Section 1905 of title 18, United States Code, is amended by inserting “any person acting on behalf of the Office of Federal Housing Enterprise Oversight,” after “or agency thereof.”

12 USC 4601.

**SEC. 1354. REVIEW OF UNDERWRITING GUIDELINES.**

(a) **STUDY.**—Each of the enterprises shall conduct a study to review the underwriting guidelines of the enterprise. The studies shall examine—

(1) the extent to which the underwriting guidelines prevent or inhibit the purchase or securitization of mortgages for housing located in mixed-use, urban center, and predominantly minority neighborhoods and for housing for low- and moderate-income families;

(2) the standards employed by private mortgage insurers and the extent to which such standards inhibit the purchase and securitization by the enterprises of mortgages described in paragraph (1); and

(3) the implications of implementing underwriting standards that—

(A) establish a downpayment requirement for mortgagors of 5 percent or less;

(B) allow the use of cash on hand as a source for downpayments; and

(C) approve borrowers who have a credit history of delinquencies if the borrower can demonstrate a satisfactory credit history for at least the 12-month period ending on the date of the application for the mortgage.

(b) **REPORT.**—Not later than the expiration of the 1-year period beginning on the date of the enactment of this Act, each enterprise shall submit to the Secretary, the Committee on Banking, Finance and Urban Affairs of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate a report regarding the study conducted by the enterprise under subsection (a). Each report shall include any recommendations of the enterprise for better meeting the housing needs of low- and moderate-income families.

12 USC 4602.

**SEC. 1355. STUDIES OF EFFECTS OF PRIVATIZATION OF FNMA AND FHLMC.**

(a) **IN GENERAL.**—The Comptroller General of the United States, the Secretary of Housing and Urban Development, the Secretary of the Treasury, and the Director of the Congressional Budget Office shall each conduct and submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, not later than the expiration of the 2-year period beginning on the date of the enactment of this Act, a study regarding the desirability and feasibility of repealing the Federal charters of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, eliminating any Federal sponsorship of the enterprises, and allowing the enterprises to continue to operate as fully private entities.

(b) **REQUIREMENTS.**—Each study shall particularly examine the effects of such privatization on—



(1) the requirements applicable to the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation under Federal law and the costs to the enterprises;

(2) the cost of capital to the enterprises;

(3) housing affordability and availability and the cost of homeownership;

(4) the level of secondary mortgage market competition subsequently available in the private sector;

(5) whether increased amounts of capital would be necessary for the enterprises to continue operation;

(6) the secondary market for residential loans and the liquidity of such loans; and

(7) any other factors that the Comptroller General, the Secretary of Housing and Urban Development, the Secretary of the Treasury, or the Director of the Congressional Budget Office deems appropriate to enable the Congress to evaluate the desirability and feasibility of privatization of the enterprises.

(c) **INFORMATION.**—The Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation shall provide full and prompt access to the Comptroller General, the Secretary of Housing and Urban Development, the Secretary of the Treasury, and the Director of the Congressional Budget Office to any books, records, and other information requested for the purposes of conducting the studies under this section.

(d) **VIEWS OF THE FNMA AND FHLMC.**—

(1) **CONSIDERATION IN STUDIES.**—In conducting the studies under this section, the Comptroller General, the Secretary of Housing and Urban Development, the Secretary of the Treasury, and the Director of the Congressional Budget Office shall each consider the views of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(2) **DIRECT REPORT.**—The Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation may each report directly to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on its own analysis of the desirability and feasibility of repealing the Federal charters of the enterprises, eliminating any Federal sponsorship, and allowing the enterprises to continue to operate as fully private entities.

#### **SEC. 1356. TRANSITION.**

12 USC 4603.

Before the expiration of the period ending 18 months after the appointment of the Director under section 1312, any rules and regulations promulgated before the date of the enactment of this Act by the Secretary pursuant to the Federal National Mortgage Association Charter Act or the Federal Home Loan Mortgage Corporation Act shall remain in effect unless modified, terminated, superseded, or revoked by operation of law or in accordance with law. Such rules and regulations shall terminate, effective upon the expiration of such period.

Termination  
date.

## Subtitle B—Required Capital Levels for Enterprises and Special Enforcement Powers

12 USC 4611.

Regulations.

### SEC. 1361. RISK-BASED CAPITAL LEVELS.

(a) **RISK-BASED CAPITAL TEST.**—The Director shall, by regulation, establish a risk-based capital test under this section for the enterprises. When applied to an enterprise, the risk-based capital test shall determine the amount of total capital for the enterprise that is sufficient for the enterprise to maintain positive capital during a 10-year period in which the following circumstances occur (in this section referred to as the “stress period”):

(1) **CREDIT RISK.**—With respect to mortgages owned or guaranteed by the enterprise and other obligations of the enterprise, losses occur throughout the United States at a rate of default and severity (based on any measurements of default reasonably related to prevailing practice for that industry in determining capital adequacy) reasonably related to the rate and severity that occurred in contiguous areas of the United States containing an aggregate of not less than 5 percent of the total population of the United States that, for a period of not less than 2 years, experienced the highest rates of default and severity of mortgage losses, in comparison with such rates of default and severity of mortgage losses in other such areas for any period of such duration.

(2) **INTEREST RATE RISK.**—

(A) **IN GENERAL.**—Interest rates decrease as described in subparagraph (B) or increase as described in subparagraph (C), whichever would require more capital for the enterprise.

(B) **DECREASES.**—The 10-year constant maturity Treasury yield decreases during the first year of the stress period and will remain at the new level for the remainder of the stress period. The yield decreases to the lesser of—

- (i) 600 basis points below the average yield during the preceding 9 months, or
- (ii) 60 percent of the average yield during the preceding 3 years,

but in no case to a yield less than 50 percent of the average yield during the preceding 9 months.

(C) **INCREASES.**—The 10-year constant maturity Treasury yield increases during the first year of the stress period and will remain at the new level for the remainder of the stress period. The yield increases to the greater of—

- (i) 600 basis points above the average yield during the preceding 9 months, or
- (ii) 160 percent of the average yield during the preceding 3 years,

but in no case to a yield greater than 175 percent of the average yield during the preceding 9 months.

(D) **DIFFERENT TERMS TO MATURITY.**—Yields of Treasury instruments with other terms to maturity will change relative to the 10-year constant maturity Treasury yield in patterns and for durations that are reasonably related

to historical experience and are judged reasonable by the Director.

(E) **LARGE INCREASES IN YIELDS.**—If the 10-year constant maturity Treasury yield is assumed to increase by more than 50 percent over the average yield during the preceding 9 months, the Director shall adjust the losses in paragraphs (1) and (3) to reflect a correspondingly higher rate of general price inflation.

(3) **NEW BUSINESS.**—

(A) **IN GENERAL.**—Any contractual commitments of the enterprise to purchase mortgages or issue securities will be fulfilled. The characteristics of resulting mortgage purchases, securities issued, and other financing will be consistent with the contractual terms of such commitments, recent experience, and the economic characteristics of the stress period. No other purchases of mortgages shall be assumed, except as provided in subparagraph (B).

(B) **ADDITIONAL NEW BUSINESS.**—The Director may, after consideration of each of the studies required by subparagraph (C), assume that the enterprise conducts additional new business during the stress period consistent with the following—

(i) **AMOUNT AND PRODUCT TYPES.**—The amount and types of mortgages purchased and their financing will be reasonably related to recent experience and the economic characteristics of the stress period.

(ii) **LOSSES.**—Default and loss severity characteristics of mortgages purchased will be reasonably related to historical experience.

(iii) **PRICING.**—Prices charged by the enterprise in purchasing new mortgages will be reasonably related to recent experience and the economic characteristics of the stress period. The Director may assume that a reasonable period of time would lapse before the enterprise would recognize and react to the characteristics of the stress period.

(iv) **INTEREST RATE RISK.**—Interest rate risk on new mortgages purchased will occur to an extent reasonably related to historical experience.

(v) **RESERVES.**—The enterprise must maintain reserves during and at the end of the stress period on new business conducted during the first 5 years of the stress period reasonably related to the expected future losses on such business, consistent with generally accepted accounting principles and industry accounting practice.

(C) **STUDIES.**—Within 1 year after regulations are first issued under subsection (e), the Director of the Congressional Budget Office, and the Comptroller General of the United States shall each submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a study of the advisability and appropriate form of any new business assumptions under subparagraph (B).

(D) **EFFECTIVE DATE.**—The provisions of subparagraph (B) shall become effective 4 years after regulations are first issued under subsection (e).

(4) **OTHER ACTIVITIES.**—Losses or gains on other activities, including interest rate and foreign exchange hedging activities, shall be determined by the Director, on the basis of available information, to be consistent with the stress period.

(b) **CONSIDERATIONS.**—

(1) **IN GENERAL.**—In establishing the risk-based capital test under subsection (a), the Director shall take into account appropriate distinctions among types of mortgage products, differences in seasoning of mortgages, and any other factors the Director considers appropriate.

(2) **CONSISTENCY.**—Characteristics of the stress period other than those specifically set forth in subsection (a), such as prepayment experience and dividend policies, will be those determined by the Director, on the basis of available information, to be most consistent with the stress period.

(c) **RISK-BASED CAPITAL LEVEL.**—For purposes of this subtitle, the risk-based capital level for an enterprise shall be equal to the sum of the following amounts:

(1) **CREDIT AND INTEREST RATE RISK.**—The amount of total capital determined by applying the risk-based capital test under subsection (a) to the enterprise.

(2) **MANAGEMENT AND OPERATIONS RISK.**—To provide for management and operations risk, 30 percent of the amount of total capital determined by applying the risk-based capital test under subsection (a) to the enterprise.

(d) **DEFINITIONS.**—For purposes of this section:

(1) **SEASONING.**—The term “seasoning” means the change over time in the ratio of the unpaid principal balance of a mortgage to the value of the property by which such mortgage loan is secured, determined on an annual basis by region, in accordance with the Constant Quality Home Price Index published by the Secretary of Commerce (or any index of similar quality, authority, and public availability that is regularly used by the Federal Government).

(2) **TYPE OF MORTGAGE PRODUCT.**—The term “type of mortgage product” means a classification of one or more mortgage products, as established by the Director, which have similar characteristics from each set of characteristics under the following subparagraphs:

(A) The property securing the mortgage is—

(i) a residential property consisting of 1 to 4 dwelling units; or

(ii) a residential property consisting of more than 4 dwelling units.

(B) The interest rate on the mortgage is—

(i) fixed; or

(ii) adjustable.

(C) The priority of the lien securing the mortgage is—

(i) first; or

(ii) second or other.

(D) The term of the mortgage is—

(i) 1 to 15 years;

(ii) 16 to 30 years; or

- (iii) more than 30 years.
- (E) The owner of the property is—
  - (i) an owner-occupant; or
  - (ii) an investor.
- (F) The unpaid principal balance of the mortgage—
  - (i) will amortize completely over the term of the mortgage and will not increase significantly at any time during the term of the mortgage;
  - (ii) will not amortize completely over the term of the mortgage and will not increase significantly at any time during the term of the mortgage; or
  - (iii) may increase significantly at some time during the term of the mortgage.
- (G) Any other characteristics of the mortgage, as the Director may determine.

(e) REGULATIONS.—

(1) ISSUANCE.—The Director shall issue final regulations establishing the risk-based capital test under this section not later than the expiration of the 18-month period beginning on the date of the appointment of the Director. Such regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code, and shall take effect upon issuance.

(2) CONTENTS.—The regulations under this subsection shall contain specific requirements, definitions, methods, variables, and parameters used under the risk-based capital test and in implementing the test (such as loan loss severity, float income, loan-to-value ratios, taxes, yield curve slopes, default experience, and prepayment rates). The regulations shall be sufficiently specific to permit an individual other than the Director to apply the test in the same manner as the Director.

(3) CONFIDENTIALITY OF INFORMATION.—Any person that receives any book, record, or information from the Director or an enterprise to enable the risk-based capital test to be applied shall—

(A) maintain the confidentiality of the book, record, or information in a manner that is generally consistent with the level of confidentiality established for the material by the Director or the enterprise; and

(B) be exempt from section 552 of title 5, United States Code, with respect to the book, record, or information.

(f) AVAILABILITY OF MODEL.—The Director shall provide copies of the statistical model or models used to implement the risk-based capital test under this section to the Secretary, the Board of Governors of the Federal Reserve System, the Director of the Office of Management and Budget, the Comptroller General of the United States, and the Director of the Congressional Budget Office. The Director shall make copies of such model or models available for public acquisition and may charge a reasonable fee for such copies.

**SEC. 1362. MINIMUM CAPITAL LEVELS.**

12 USC 4612.

(a) IN GENERAL.—For purposes of this subtitle, the minimum capital level for each enterprise shall be the sum of—

- (1) 2.50 percent of the aggregate on-balance sheet assets of the enterprise, as determined in accordance with generally accepted accounting principles;

(2) 0.45 percent of the unpaid principal balance of outstanding mortgage-backed securities and substantially equivalent instruments issued or guaranteed by the enterprise that are not included in paragraph (1); and

(3) 0.45 percent of other off-balance sheet obligations of the enterprise not included in paragraph (2) (excluding commitments in excess of 50 percent of the average dollar amount of the commitments outstanding each quarter over the preceding 4 quarters), except that the Director shall adjust such percentage to reflect differences in the credit risk of such obligations in relation to the instruments included in paragraph (2).

(b) **TRANSITION.**—Notwithstanding subsection (a), during the 18-month period beginning upon the date of the enactment of this Act, the minimum capital level for each enterprise shall be the sum of—

(1) 2.25 percent of the aggregate on-balance sheet assets of the enterprise, as determined in accordance with generally accepted accounting principles;

(2) 0.40 percent of the unpaid principal balance of outstanding mortgage-backed securities and substantially equivalent instruments issued or guaranteed by the enterprise that are not included in paragraph (1); and

(3) 0.40 percent of other off-balance sheet obligations of the enterprise not included in paragraph (2) (excluding commitments in excess of 50 percent of the average dollar amount of the commitments outstanding each quarter over the preceding 4 quarters), except that the Director shall adjust such percentage to reflect differences in the credit risk of such obligations in relation to the instruments included in paragraph (2).

12 USC 4613.

#### **SEC. 1363. CRITICAL CAPITAL LEVELS.**

For purposes of this subtitle, the critical capital level for each enterprise shall be the sum of—

(1) 1.25 percent of the aggregate on-balance sheet assets of the enterprise, as determined in accordance with generally accepted accounting principles;

(2) 0.25 percent of the unpaid principal balance of outstanding mortgage-backed securities and substantially equivalent instruments issued or guaranteed by the enterprise that are not included in paragraph (1); and

(3) 0.25 percent of other off-balance sheet obligations of the enterprise not included in paragraph (2) (excluding commitments in excess of 50 percent of the average dollar amount of the commitments outstanding each quarter over the preceding 4 quarters), except that the Director shall adjust such percentage to reflect differences in the credit risk of such obligations in relation to the instruments included in paragraph (2).

12 USC 4614.

#### **SEC. 1364. CAPITAL CLASSIFICATIONS.**

(a) **IN GENERAL.**—For purposes of this subtitle, the Director shall classify the enterprises according to the following capital classifications:

(1) **ADEQUATELY CAPITALIZED.**—An enterprise shall be classified as adequately capitalized if the enterprise—

(A) maintains an amount of total capital that is equal to or exceeds the risk-based capital level established for the enterprise under section 1361; and

(B) maintains an amount of core capital that is equal to or exceeds the minimum capital level established for the enterprise under section 1362.

(2) UNDERCAPITALIZED.—An enterprise shall be classified as undercapitalized if—

(A) the enterprise—

(i) does not maintain an amount of total capital that is equal to or exceeds the risk-based capital level established for the enterprise; and

(ii) maintains an amount of core capital that is equal to or exceeds the minimum capital level established for the enterprise; or

(B) the enterprise is otherwise classified as undercapitalized under subsection (b)(1) of this section.

(3) SIGNIFICANTLY UNDERCAPITALIZED.—An enterprise shall be classified as significantly undercapitalized if—

(A) the enterprise—

(i) does not maintain an amount of total capital that is equal to or exceeds the risk-based capital level established for the enterprise;

(ii) does not maintain an amount of core capital that is equal to or exceeds the minimum capital level established for the enterprise; and

(iii) maintains an amount of core capital that is equal to or exceeds the critical capital level established for the enterprise under section 1363; or

(B) the enterprise is otherwise classified as significantly undercapitalized under subsection (b)(2) of this section or section 1365(b).

(4) CRITICALLY UNDERCAPITALIZED.—An enterprise shall be classified as critically undercapitalized if—

(A) the enterprise—

(i) does not maintain an amount of total capital that is equal to or exceeds the risk-based capital level established for the enterprise; and

(ii) does not maintain an amount of core capital that is equal to or exceeds the critical capital level for the enterprise; or

(B) is otherwise classified as critically undercapitalized under subsection (b)(3) of this section or section 1366(b)(5).

(b) DISCRETIONARY CLASSIFICATION.—If at any time the Director determines in writing that an enterprise is engaging in conduct not approved by the Director that could result in a rapid depletion of core capital or that the value of the property subject to mortgages held or securitized by the enterprise has decreased significantly, the Director may classify the enterprise—

(1) as undercapitalized, if the enterprise is otherwise classified as adequately capitalized;

(2) as significantly undercapitalized, if the enterprise is otherwise classified as undercapitalized; and

(3) as critically undercapitalized, if the enterprise is otherwise classified as significantly undercapitalized.

(c) QUARTERLY DETERMINATION.—The Director shall determine the capital classification of the enterprises for purposes of this

subtitle on not less than a quarterly basis (and as appropriate under subsection (b)). The first such determination shall be made during the 3-month period beginning on the appointment of the Director.

(d) **IMPLEMENTATION.**—Notwithstanding any other provision of this section, during the period beginning on the date of the enactment of this Act and ending upon the effective date of section 1365 (as provided in section 1365(c)), an enterprise shall be classified as adequately capitalized if the enterprise maintains an amount of core capital that is equal to or exceeds the minimum capital level for the enterprise under section 1362.

12 USC 4615.

**SEC. 1365. SUPERVISORY ACTIONS APPLICABLE TO UNDERCAPITALIZED ENTERPRISES.**

(a) **MANDATORY ACTIONS.**—

(1) **CAPITAL RESTORATION PLAN.**—An enterprise that is classified as undercapitalized shall, within the time period provided in section 1369C (b) and (d), submit to the Director a capital restoration plan that complies with section 1369C and carry out the plan after approval.

(2) **RESTRICTION ON CAPITAL DISTRIBUTIONS.**—An enterprise that is classified as undercapitalized may not make any capital distribution that would result in the enterprise being reclassified as significantly undercapitalized or critically undercapitalized.

(b) **DISCRETIONARY RECLASSIFICATION FROM UNDERCAPITALIZED TO SIGNIFICANTLY UNDERCAPITALIZED.**—The Director may reclassify as significantly undercapitalized an enterprise that is classified as undercapitalized (and the enterprise shall be subject to the provisions of section 1366) if—

(1) the enterprise does not submit a capital restoration plan that is substantially in compliance with section 1369C within the applicable period or the Director does not approve the capital restoration plan submitted by the enterprise; or

(2) the Director determines that the enterprise has failed to make, in good faith, reasonable efforts necessary to comply with the capital restoration plan and fulfill the schedule for the plan approved by the Director.

(c) **EFFECTIVE DATE.**—This section shall take effect upon the expiration of the 1-year period beginning on the date of the effectiveness of the regulations issued under section 1361(e) establishing the risk-based capital test.

12 USC 4616.

**SEC. 1366. SUPERVISORY ACTIONS APPLICABLE TO SIGNIFICANTLY UNDERCAPITALIZED ENTERPRISES.**

(a) **MANDATORY SUPERVISORY ACTIONS.**—

(1) **CAPITAL RESTORATION PLAN.**—An enterprise that is classified as significantly undercapitalized shall, within the time period under section 1369C (b) and (d), submit to the Director a capital restoration plan that complies with section 1369C and carry out the plan after approval.

(2) **RESTRICTIONS ON CAPITAL DISTRIBUTIONS.**—

(A) **PRIOR APPROVAL.**—An enterprise that is classified as significantly undercapitalized may not make any capital distribution that would result in the enterprise being reclassified as critically undercapitalized. An enterprise that is classified as significantly undercapitalized enter-



prise may not make any other capital distribution unless the Director approves the distribution.

(B) **STANDARD FOR APPROVAL.**—The Director may approve a capital distribution by an enterprise classified as significantly undercapitalized only if the Director determines that the distribution (i) will enhance the ability of the enterprise to meet the risk-based capital level and the minimum capital level for the enterprise promptly, (ii) will contribute to the long-term financial safety and soundness of the enterprise, or (iii) is otherwise in the public interest.

(b) **DISCRETIONARY SUPERVISORY ACTIONS.**—In addition to any other actions taken by the Director (including actions under subsection (a)), the Director may, at any time, take any of the following actions with respect to an enterprise that is classified as significantly undercapitalized:

(1) **LIMITATION ON INCREASE IN OBLIGATIONS.**—Limit any increase in, or order the reduction of, any obligations of the enterprise, including off-balance sheet obligations.

(2) **LIMITATION ON GROWTH.**—Limit or prohibit the growth of the assets of the enterprise or require contraction of the assets of the enterprise.

(3) **ACQUISITION OF NEW CAPITAL.**—Require the enterprise to acquire new capital in a form and amount determined by the Director.

(4) **RESTRICTION OF ACTIVITIES.**—Require the enterprise to terminate, reduce, or modify any activity that the Director determines creates excessive risk to the enterprise.

(5) **RECLASSIFICATION FROM SIGNIFICANTLY TO CRITICALLY UNDERCAPITALIZED.**—The Director may reclassify as critically undercapitalized an enterprise that is classified as significantly undercapitalized (and the enterprise shall be subject to the provisions of section 1367) if—

(A) the enterprise does not submit a capital restoration plan that is substantially in compliance with section 1369C within the applicable period or the Director does not approve the capital restoration plan submitted by the enterprise; or

(B) the Director determines that the enterprise has failed to make, in good faith, reasonable efforts necessary to comply with the capital restoration plan and fulfill the schedule for the plan approved by the Director.

(6) **CONSERVATORSHIP.**—Appoint a conservator for the enterprise in accordance with the provisions of section 1369 (excluding subsection (a) (1) and (2)), but only if the Director determines—

(A) that the amount of core capital of the enterprise is less than the minimum capital level established for the enterprise under section 1362; and

(B) that alternative remedies available to the Director under this title are not satisfactory.

(c) **EFFECTIVE DATE.**—This section shall take effect upon the first classification of the enterprises within capital classifications that occurs under section 1364.

12 USC 4617.

**SEC. 1367. APPOINTMENT OF CONSERVATORS FOR CRITICALLY UNDERCAPITALIZED ENTERPRISES.****(a) APPOINTMENT.—**

(1) **IN GENERAL.**—Upon a determination and notice under section 1368(d) that an enterprise is critically undercapitalized and not later than 30 days after providing notice under section 1369(a)(3), the Director shall appoint a conservator for the enterprise in accordance with the provisions of section 1369 (excluding subsections (a) (1) and (2)).

(2) **EXCEPTION.**—Notwithstanding paragraph (1), the Director may determine not to appoint a conservator for an enterprise classified as critically undercapitalized, but only pursuant to a written finding by the Director, with the written concurrence of the Secretary of the Treasury, that—

(A) the appointment of a conservator would have serious adverse effects on economic conditions of national financial markets or on the financial stability of the housing finance market; and

(B) the public interest would be better served by taking some other enforcement action authorized under this title.

(b) **AUTHORITY.**—The Director shall have the authority to take any actions under sections 1365 and 1366 with respect to an enterprise under conservatorship.

**(c) APPROVAL OF ACTIVITIES.—**

(1) **CONSERVATOR.**—The conservator of any enterprise classified as critically undercapitalized may undertake an activity subject to the approval of the Secretary under section 1322 of this title only with the additional approval of the Director.

(2) **NO CONSERVATOR.**—If the Director determines under subsection (a)(2) not to appoint a conservator for an enterprise classified as critically undercapitalized, the provisions of section 1366 shall apply with respect to the enterprise.

(d) **EFFECTIVE DATE.**—This section shall take effect upon the first classification of the enterprises within capital classifications that occurs under section 1364.

12 USC 4618.

**SEC. 1368. NOTICE OF CLASSIFICATION AND ENFORCEMENT ACTION.**

(a) **NOTICE.**—Before taking any action referred to in subsection (b), the Director shall provide to the enterprise written notice of the proposed action, which states the reasons for the proposed action and the information on which the proposed action is based.

(b) **APPLICABILITY.**—The requirements of subsection (a) shall apply to the following actions:

(1) Classification or reclassification of an enterprise within a particular capital classification under section 1364.

(2) Any discretionary supervisory action pursuant to section 1365.

(3) Any discretionary supervisory action pursuant to section 1366 except a decision to appoint a conservator under section 1366(b)(6).

Notice of classification under paragraph (1) and notice of supervisory actions under paragraph (2) or (3) may be provided together in a single notice under subsection (a).

**(c) RESPONSE PERIOD.—**

(1) **IN GENERAL.**—During the 30-day period beginning on the date that an enterprise is provided notice under subsection (a) of a proposed action, the enterprise may submit to the

Director any information relevant to the action that the enterprise considers appropriate for consideration by the Director in determining whether to take such action. The Director may, at the discretion of the Director, hold an informal administrative hearing to receive and discuss such information and the proposed determination.

(2) **EXTENDED PERIOD.**—The Director may extend the period under paragraph (1) for good cause for not more than 30 additional days.

(3) **SHORTENED PERIOD.**—The Director may shorten the period under paragraph (1) if the Director determines that the condition of the enterprise so requires or the enterprise consents.

(4) **FAILURE TO RESPOND.**—The failure of an enterprise to provide information during the response period under this subsection (as extended or shortened) shall waive any right of the enterprise to comment on the proposed action of the Director.

(d) **CONSIDERATION OF INFORMATION AND DETERMINATION.**—After the expiration of the response period under subsection (c) or upon receipt of information provided during such period by the enterprise, whichever occurs earlier, the Director shall determine whether to take the action proposed, taking into consideration any relevant information submitted by the enterprise during the response period. The Director shall provide written notice of a determination to take action and the reasons for such determination to the enterprise, the Committee on Banking, Finance and Urban Affairs of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate. Such notice shall respond to any information submitted during the response period.

(e) **EFFECTIVE DATE OF ACTIONS.**—An action referred to in subsection (b) shall take effect upon receipt by the enterprise of notice of the determination of the Director under subsection (d), unless otherwise provided in such notice.

#### **SEC. 1369. APPOINTMENT OF CONSERVATORS.**

12 USC 4619.

##### **(a) APPOINTMENT.**—

(1) **DISCRETIONARY AUTHORITY.**—The Director may, after providing notice under paragraph (3), appoint a conservator for an enterprise upon a determination in writing—

(A) that alternative remedies available to the Director under this title are not satisfactory; and

(B) that—

(i) the enterprise is not likely to pay its obligations in the normal course of business;

(ii) the enterprise has incurred or is reasonably likely to incur losses that would deplete substantially all of its core capital and it is unlikely that the enterprise will replenish its core capital within a reasonable period;

(iii) the enterprise has concealed or is concealing books, papers, records, or assets of the enterprise that are material to the discharge of the Director's responsibilities under this subtitle, or has refused or is refusing to submit such books, papers, records, or

information regarding the affairs of the enterprise for inspection to the Director upon request; or

(iv) the enterprise has willfully violated, or is willfully violating, a final cease-and-desist order under section 1371.

(2) **CONSENT OF ENTERPRISE.**—Notwithstanding paragraph (1), the Director may appoint a conservator for an enterprise if the enterprise, by an affirmative vote of a majority of the members of its board of directors or by an affirmative vote of a majority of its shareholders, consents to such appointment.

(3) **NOTICE.**—Upon making a determination under paragraph (1) of this subsection or under section 1366 or 1367 to appoint a conservator for an enterprise, or upon consent of the enterprise under paragraph (2) to such an appointment, the Director shall provide written notice to the enterprise, the Committee on Banking, Finance and Urban Affairs of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate—

(A) that a conservator will be appointed for the enterprise;

(B) stating the reasons for the appointment of the conservator; and

(C) identifying the person or governmental agency that the Director intends to appoint as conservator.

(4) **QUALIFICATIONS.**—The conservator shall be—

(A) the Director or any other governmental agency;

or

(B) any person that—

(i) has no claim against, or financial interest in, the enterprise or other basis for a conflict of interest; and

(ii) has the financial and management expertise necessary to direct the operations and affairs of the enterprise.

(b) **JUDICIAL REVIEW.**—

(1) **TIMING AND JURISDICTION.**—Except as provided in paragraph (2), an enterprise for which a conservator is appointed (pursuant to this section or section 1366 or 1367) may bring an action in the United States District Court for the District of Columbia for an order requiring the Director to terminate the appointment of the conservator. The court, upon the merits, shall dismiss such action or shall direct the Director to terminate the appointment of the conservator. Such an action may be commenced only during the 20-day period beginning upon the appointment of the conservator.

(2) **CONSENSUAL APPOINTMENTS.**—Appointment of a conservator pursuant to consent of the enterprise under subsection (a)(2) shall not be subject to judicial review under this subsection.

(3) **STANDARD OF REVIEW.**—A decision of the Director to appoint a conservator may be set aside under this subsection only if the court finds that the decision was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with applicable laws.

(4) **LIMITATION ON JURISDICTION.**—Except as otherwise provided in this subsection, no court may take any action regarding

the removal of a conservator or otherwise restrain or affect the exercise of powers or functions of a conservator.

(c) **REPLACEMENT.**—The Director may, without notice or hearing, replace a conservator with another conservator. Such replacement shall not affect the right of the enterprise under subsection (b) to obtain judicial review of the decision of the Director to appoint a conservator.

(d) **EXAMINATIONS.**—The Director may examine and supervise any enterprise in conservatorship during the period in which the enterprise continues to operate as a going concern.

(e) **TERMINATION.**—

(1) **DISCRETIONARY.**—At any time the Director determines that termination of a conservatorship pursuant to an appointment under subsection (a) is in the public interest and may safely be accomplished, the Director may terminate the conservatorship and permit the enterprise to resume the transaction of its business subject to such terms, conditions, and limitations as the Director may prescribe.

(2) **MANDATORY.**—The Director shall terminate a conservatorship initiated pursuant to section 1366 or 1367 upon a determination by the Director that the enterprise has maintained an amount of core capital that is equal to or exceeds the minimum capital level for the enterprise established under section 1362, and may by written order prescribe such terms, conditions, and limitations on the enterprise as the Director considers appropriate.

(3) **TERMS.**—Any terms, conditions, and limitations imposed by the Director upon termination of a conservatorship shall be enforceable and reviewable under the provisions of sections 1374 and 1375, to the same extent as any cease-and-desist order issued pursuant to subtitle C.

#### **SEC. 1369A. POWERS OF CONSERVATORS.**

12 USC 4620.

(a) **GENERAL POWERS.**—A conservator shall have all the powers of the shareholders, directors, and officers of the enterprise under conservatorship and may operate the enterprise in the name of the enterprise, unless the Director provides otherwise.

(b) **ADDITIONAL POWER.**—A conservator may avoid any security interest taken by a creditor with the intent to hinder, delay, or defraud the enterprise or the creditors of the enterprise.

(c) **LIMITATIONS BY DIRECTOR.**—A conservator shall be subject to any rules, regulations, and orders issued from time to time by the Director and, except as otherwise specifically provided in such rules, regulations, or orders or in section 1369B, shall have the same rights and privileges and be subject to the same duties, restrictions, penalties, conditions, and limitations applicable to directors, officers, or employees of the enterprise.

(d) **ENFORCEMENT OF CONTRACTS.**—

(1) **IN GENERAL.**—A conservator may enforce any contract described in paragraph (2), notwithstanding any provision of the contract providing for the termination, default, acceleration, or other exercise of rights upon, or solely by reason of, the insolvency of the enterprise or the appointment of a conservator.

(2) **ENFORCEABLE CONTRACTS.**—Any contract that is within a class of contracts shall be enforceable under paragraph (1) if the Director—

(A) determines that the continued enforceability of such class of contracts is necessary to achieve the purpose of the conservatorship; and

(B) specifically provides for the enforceability of such class of contracts in a regulation or order, issued for the purpose of this subsection, which describes such class.

(3) **APPLICABILITY.**—This subsection and any regulation or order issued under this subsection shall apply only to contracts entered into, modified, extended, or renewed after the effective date of the regulation or order.

(e) **STAYS.**—

(1) **IN GENERAL.**—Not later than 45 days after appointment pursuant to section 1366, 1367, or 1369, or 45 days after receipt of actual notice of an action or proceeding that is pending at the time of appointment, a conservator may request that any judicial action or proceeding to which the conservator or the enterprise is or may become a party be stayed for a period not exceeding 45 days after the request. Upon petition, the court shall grant such stay as to all parties.

(2) **FEDERAL AGENCY AS CONSERVATOR.**—In any case in which the conservator appointed for an enterprise is a Federal agency or an officer or employee of the Federal Government, the conservator may make a request for a stay under paragraph (1) only with the prior consent of the Attorney General and subject to the direction and control of the Attorney General.

(f) **PAYMENT OF CREDITORS.**—The Director may require a conservator to set aside and make available for payment to creditors any amounts that the Director determines may safely be used for such purpose. All creditors who are similarly situated shall be treated in a similar manner.

(g) **COMPENSATION OF CONSERVATOR AND EMPLOYEES.**—A conservator and professional employees (other than Federal employees) appointed to represent or assist the conservator may be compensated for activities conducted as conservator. Compensation may not be provided in amounts greater than the compensation paid to employees of the Federal Government for similar services, except that the Director may provide for compensation at higher rates (but not in excess of rates prevailing in the private sector), if the Director determines that compensation at higher rates is necessary in order to recruit and retain competent personnel.

(h) **EXPENSES.**—All expenses of a conservatorship pursuant to this section (including compensation pursuant to subsection (f)) shall be paid by the enterprise under conservatorship and shall be secured by a lien on the enterprise, which shall have priority over any other lien.

(i) **CONFLICTS OF INTEREST AND FINANCIAL DISCLOSURE.**—A conservator shall be subject to any laws and regulations relating to conflicts of interest and financial disclosure that apply to employees of the Office.

12 USC 4621.

#### **SEC. 1369B. LIABILITY PROTECTION FOR CONSERVATORS.**

(a) **FEDERAL AGENCIES AND EMPLOYEES.**—In any case in which a conservator appointed under this subtitle is a Federal agency or an officer or employee of the Federal Government, the provisions of chapters 161 and 171 of title 28, United States Code, shall apply with respect to the liability of the conservator for acts or

omissions performed pursuant to and in the course of the duties and responsibilities of the conservatorship.

(b) **OTHER CONSERVATORS.**—In any case where the conservator is not a conservator described in subsection (a), the conservator shall not be personally liable for damages in tort or otherwise for acts or omissions performed pursuant to and in the course of the duties and responsibilities of the conservatorship, unless such acts or omissions constitute gross negligence or any form of intentional tortious conduct or criminal conduct.

(c) **INDEMNIFICATION.**—The Director, with the approval of the Attorney General, may indemnify the conservator on such terms as the Director considers appropriate.

**SEC. 1369C. CAPITAL RESTORATION PLANS.**

12 USC 4622.

(a) **CONTENTS.**—Each capital restoration plan submitted under this subtitle shall set forth a feasible plan for restoring the core capital of the enterprise subject to the plan to an amount not less than the minimum capital level for the enterprise and for restoring the total capital of the enterprise to an amount not less than the risk-based capital level for the enterprise. Each capital restoration plan shall—

(1) specify the level of capital the enterprise will achieve and maintain;

(2) describe the actions that the enterprise will take to become classified as adequately capitalized;

(3) establish a schedule for completing the actions set forth in the plan;

(4) specify the types and levels of activities (including existing and new programs) in which the enterprise will engage during the term of the plan; and

(5) describe the actions that the enterprise will take to comply with any mandatory and discretionary requirements imposed under this subtitle.

(b) **DEADLINES FOR SUBMISSION.**—The Director shall, by regulation, establish a deadline for submission of a capital restoration plan, which may not be more than 45 days after the enterprise is notified in writing that a plan is required. The regulations shall provide that the Director may extend the deadline to the extent that the Director determines it necessary. Any extension of the deadline shall be in writing and for a time certain.

Regulations.

(c) **APPROVAL.**—The Director shall review each capital restoration plan submitted under this section and, not later than 30 days after submission of the plan, approve or disapprove the plan. The Director may extend the period for approval or disapproval for any plan for a single additional 30-day period if the Director determines it necessary. The Director shall provide written notice to any enterprise submitting a plan of the approval or disapproval of the plan (which shall include the reasons for any disapproval of the plan) and of any extension of the period for approval or disapproval.

(d) **RESUBMISSION.**—If the Director disapproves the initial capital restoration plan submitted by the enterprise, the enterprise shall submit an amended plan acceptable to the Director within 30 days or such longer period that the Director determines is in the public interest.

**SEC. 1369D. JUDICIAL REVIEW OF DIRECTOR ACTION.**

12 USC 4623.

(a) **JURISDICTION.**—

(1) **FILING OF PETITION.**—An enterprise that is not classified as critically undercapitalized and is the subject of a classification under section 1364 or a discretionary supervisory action taken under this subtitle by the Director (other than action to appoint a conservator under section 1366 or 1367 or action under section 1369) may obtain review of the classification or action by filing, within 10 days after receiving written notice of the Director's action, a written petition requesting that the classification or action of the Director be modified, terminated, or set aside.

(2) **PLACE FOR FILING.**—A petition filed pursuant to this subsection shall be filed in the United States Court of Appeals for the District of Columbia Circuit.

(b) **SCOPE OF REVIEW.**—The Court may modify, terminate, or set aside an action taken by the Director and reviewed by the Court pursuant to this section only if the court finds, on the record on which the Director acted, that the action of the Director was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with applicable laws.

(c) **UNAVAILABILITY OF STAY.**—The commencement of proceedings for judicial review pursuant to this section shall not operate as a stay of any action taken by the Director. Pending judicial review of the action, the court shall not have jurisdiction to stay, enjoin, or otherwise delay any supervisory action taken by the Director with respect to an enterprise that is classified as significantly or critically undercapitalized or any action of the Director that results in the classification of an enterprise as significantly or critically undercapitalized.

(d) **LIMITATION ON JURISDICTION.**—Except as provided in this section, no court shall have jurisdiction to affect, by injunction or otherwise, the issuance or effectiveness of any classification or action of the Director under this subtitle (other than appointment of a conservator under section 1366 or 1367 or action under section 1369) or to review, modify, suspend, terminate, or set aside such classification or action.

## Subtitle C—Enforcement Provisions

12 USC 4631.

### SEC. 1371. CEASE-AND-DESIST PROCEEDINGS.

(a) **GROUND FOR ISSUANCE AGAINST ADEQUATELY CAPITALIZED ENTERPRISES.**—The Director may issue and serve a notice of charges under this section upon an enterprise that is classified (for purposes of subtitle B) as adequately capitalized or upon any executive officer or director of such an enterprise, if in the determination of the Director, the enterprise, executive officer, or director is engaging or has engaged, or the Director has reasonable cause to believe that the enterprise, executive officer, or director is about to engage, in—

(1) any conduct that threatens to cause a significant depletion of the core capital of the enterprise;

(2) any conduct or violation that may result in the issuance of an order described in subsection (d)(1); or

(3) any conduct that violates—

(A) any provision of this title, the Federal National Mortgage Association Charter Act, the Federal Home Loan Mortgage Corporation Act, or any order, rule, or regulation



under any such title or Act, except that the Director may not enforce compliance with any housing goal established under subpart B of part 2 of subtitle A of this title, with section 1336 or 1337 of this title, or with subsection (m) or (n) of section 309 of the Federal National Mortgage Association Charter Act or subsection (e) or (f) of section 307 of the Federal Home Loan Mortgage Corporation Act; or

(B) any written agreement entered into by the enterprise with the Director.

(b) **GROUND FOR ISSUANCE AGAINST UNDERCAPITALIZED, SIGNIFICANTLY UNDERCAPITALIZED, AND CRITICALLY UNDERCAPITALIZED ENTERPRISES.**—The Director may issue and serve a notice of charges under this section upon an enterprise classified (for purposes of subtitle B) as undercapitalized, significantly undercapitalized, or critically undercapitalized, or any executive officer or director of any such enterprise, if in the determination of the Director the enterprise, executive officer, or director is engaging or has engaged, or the Director has reasonable cause to believe that the enterprise, executive officer, or director is about to engage, in—

(1) any conduct likely to result in a material depletion of the core capital of the enterprise, or

(2) any conduct or violation described in paragraph (2) or (3) of subsection (a),

except that the Director may not enforce compliance with any housing goal established under subpart B of part 2 of subtitle A of this title, with section 1336 or 1337 of this title, or with subsection (m) or (n) of section 309 of the Federal National Mortgage Association Charter Act or subsection (e) or (f) of section 307 of the Federal Home Loan Mortgage Corporation Act.

(c) **PROCEDURE.**—

(1) **NOTICE OF CHARGES.**—Each notice of charges under this section shall contain a statement of the facts constituting the alleged conduct or violation and shall fix a time and place at which a hearing will be held to determine on the record whether an order to cease and desist from such conduct or violation should issue.

(2) **ISSUANCE OF ORDER.**—If the Director finds on the record made at such hearing that any conduct or violation specified in the notice of charges has been established (or the enterprise consents pursuant to section 1373(a)(4)), the Director may issue and serve upon the enterprise, executive officer, or director an order requiring such party to cease and desist from any such conduct or violation and to take affirmative action to correct or remedy the conditions resulting from any such conduct or violation.

(d) **AFFIRMATIVE ACTION TO CORRECT CONDITIONS RESULTING FROM VIOLATIONS OR ACTIVITIES.**—The authority under this section and section 1372 to issue any order requiring an enterprise, executive officer, or director to take affirmative action to correct or remedy any condition resulting from any conduct or violation with respect to which such order is issued includes the authority—

(1) to require an executive officer or a director to make restitution to, or provide reimbursement, indemnification, or guarantee against loss to the enterprise to the extent that such person—

(A) was unjustly enriched in connection with such conduct or violation; or

(B) engaged in conduct or a violation that would subject such person to a civil penalty pursuant to section 1376(b)(3);

(2) to require an enterprise to seek restitution, or to obtain reimbursement, indemnification, or guarantee against loss;

(3) to restrict the growth of the enterprise;

(4) to require the enterprise to dispose of any asset involved;

(5) to require the enterprise to rescind agreements or contracts;

(6) to require the enterprise to employ qualified officers or employees (who may be subject to approval by the Director at the direction of the Director); and

(7) to require the enterprise to take such other action as the Director determines appropriate.

(e) **AUTHORITY TO LIMIT ACTIVITIES.**—The authority to issue an order under this section or section 1372 includes the authority to place limitations on the activities or functions of the enterprise or any executive officer or director of the enterprise.

(f) **EFFECTIVE DATE.**—An order under this section shall become effective upon the expiration of the 30-day period beginning on the service of the order upon the enterprise, executive officer, or director concerned (except in the case of an order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable as provided in the order, except to the extent that the order is stayed, modified, terminated, or set aside by action of the Director or otherwise, as provided in this subtitle.

12 USC 4632.

#### **SEC. 1372. TEMPORARY CEASE-AND-DESIST ORDERS.**

(a) **GROUND FOR ISSUANCE AND SCOPE.**—Whenever the Director determines that any conduct or violation, or threatened conduct or violation, specified in the notice of charges served upon the enterprise, executive officer, or director pursuant to section 1371 (a) or (b), or the continuation thereof, is likely—

(1) to cause insolvency,

(2) to cause a significant depletion of the core capital of the enterprise, or

(3) otherwise to cause irreparable harm to the enterprise, prior to the completion of the proceedings conducted pursuant to section 1371(c), the Director may issue a temporary order requiring the enterprise, executive officer, or director to cease and desist from any such conduct or violation and to take affirmative action to prevent or remedy such insolvency, depletion, or harm pending completion of such proceedings. Such order may include any requirement authorized under section 1371(d).

(b) **EFFECTIVE DATE.**—An order issued pursuant to subsection (a) shall become effective upon service upon the enterprise, executive officer, or director and, unless set aside, limited, or suspended by a court in proceedings pursuant to subsection (d), shall remain in effect and enforceable pending the completion of the proceedings pursuant to such notice and shall remain effective until the Director dismisses the charges specified in the notice or until superseded by a cease-and-desist order issued pursuant to section 1371.

(c) **INCOMPLETE OR INACCURATE RECORDS.**—

(1) **TEMPORARY ORDER.**—If a notice of charges served under section 1371 (a) or (b) specifies on the basis of particular facts and circumstances that the books and records of the enterprise served are so incomplete or inaccurate that the Director is unable, through the normal supervisory process, to determine the financial condition of the enterprise or the details or the purpose of any transaction or transactions that may have a material effect on the financial condition of that enterprise, the Director may issue a temporary order requiring—

(A) the cessation of any activity or practice which gave rise, whether in whole or in part, to the incomplete or inaccurate state of the books or records; or

(B) affirmative action to restore the books or records to a complete and accurate state.

(2) **EFFECTIVE PERIOD.**—Any temporary order issued under paragraph (1)—

(A) shall become effective upon service; and

(B) unless set aside, limited, or suspended by a court in proceedings pursuant to subsection (d), shall remain in effect and enforceable until the earlier of—

(i) the completion of the proceeding initiated under section 1371 in connection with the notice of charges; or

(ii) the date the Director determines, by examination or otherwise, that the books and records of the enterprise are accurate and reflect the financial condition of the enterprise.

(d) **JUDICIAL REVIEW.**—An enterprise, executive officer, or director that has been served with a temporary order pursuant to this section may apply to the United States District Court for the District of Columbia within 10 days after such service for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of the order pending the completion of the administrative proceedings pursuant to the notice of charges served upon the enterprise, executive officer, or director under section 1371 (a) or (b). Such court shall have jurisdiction to issue such injunction.

(e) **ENFORCEMENT BY ATTORNEY GENERAL.**—In the case of violation or threatened violation of, or failure to obey, a temporary order issued pursuant to this section, the Director may request the Attorney General of the United States to bring an action in the United States District Court for the District of Columbia for an injunction to enforce such order or may, under the direction and control of the Attorney General, bring such an action. If the court finds any such violation, threatened violation, or failure to obey, the court shall issue such injunction.

#### **SEC. 1373. HEARINGS.**

12 USC 4633.

(a) **REQUIREMENTS.**—

(1) **VENUE AND RECORD.**—Any hearing under section 1371 or 1376(c) shall be held on the record and in the District of Columbia.

(2) **TIMING.**—Any such hearing shall be fixed for a date not earlier than 30 days nor later than 60 days after service of the notice of charges under section 1371 or determination to impose a penalty under section 1376, unless an earlier or

a later date is set by the hearing officer at the request of the party served.

(3) **PROCEDURE.**—Any such hearing shall be conducted in accordance with chapter 5 of title 5, United States Code.

(4) **FAILURE TO APPEAR.**—If the party served fails to appear at the hearing through a duly authorized representative, such party shall be deemed to have consented to the issuance of the cease-and-desist order or the imposition of the penalty for which the hearing is held.

(b) **ISSUANCE OF ORDER.**—

(1) **IN GENERAL.**—After any such hearing, and within 90 days after the parties have been notified that the case has been submitted to the Director for final decision, the Director shall render the decision (which shall include findings of fact upon which the decision is predicated) and shall issue and serve upon each party to the proceeding an order or orders consistent with the provisions of this subtitle.

(2) **MODIFICATION.**—Judicial review of any such order shall be exclusively as provided in section 1374. Unless such a petition for review is timely filed as provided in section 1374, and thereafter until the record in the proceeding has been filed as so provided, the Director may at any time, modify, terminate, or set aside any such order, upon such notice and in such manner as the Director considers proper. Upon such filing of the record, the Director may modify, terminate, or set aside any such order with permission of the court.

12 USC 4634.

#### **SEC. 1374. JUDICIAL REVIEW.**

(a) **COMMENCEMENT.**—Any party to a proceeding under section 1371 or 1376 may obtain review of any final order issued under such section by filing in the United States Court of Appeals for the District of Columbia Circuit, within 30 days after the date of service of such order, a written petition praying that the order of the Director be modified, terminated, or set aside. The clerk of the court shall transmit a copy of the petition to the Director.

(b) **FILING OF RECORD.**—Upon receiving a copy of a petition, the Director shall file in the court the record in the proceeding, as provided in section 2112 of title 28, United States Code.

(c) **JURISDICTION.**—Upon the filing of a petition, such court shall have jurisdiction, which upon the filing of the record by the Director shall (except as provided in the last sentence of section 1373(b)(2)) be exclusive, to affirm, modify, terminate, or set aside, in whole or in part, the order of the Director.

(d) **REVIEW.**—Review of such proceedings shall be governed by chapter 7 of title 5, United States Code.

(e) **ORDER TO PAY PENALTY.**—Such court shall have the authority in any such review to order payment of any penalty imposed by the Director under this subtitle.

(f) **NO AUTOMATIC STAY.**—The commencement of proceedings for judicial review under this section shall not, unless specifically ordered by the court, operate as a stay of any order issued by the Director.

12 USC 4635.

#### **SEC. 1375. ENFORCEMENT AND JURISDICTION.**

(a) **ENFORCEMENT.**—The Director may request the Attorney General of the United States to bring an action in the United States District Court for the District of Columbia for the enforcement of any effective notice or order issued under this subtitle

or subtitle B or may, under the direction and control of the Attorney General, bring such an action. Such court shall have jurisdiction and power to order and require compliance herewith.

(b) **LIMITATION ON JURISDICTION.**—Except as otherwise provided in this subtitle and sections 1369 and 1369D, no court shall have jurisdiction to affect, by injunction or otherwise, the issuance or enforcement of any notice or order under section 1371, 1372, or 1376, or subtitle B, or to review, modify, suspend, terminate, or set aside any such notice or order.

**SEC. 1376. CIVIL MONEY PENALTIES.**

12 USC 4636.

(a) **IN GENERAL.**—The Director may impose a civil money penalty in accordance with this section on any enterprise, or any executive officer or director of any enterprise, that—

(1) violates any provision of this title, the Federal National Mortgage Association Charter Act, the Federal Home Loan Mortgage Corporation Act, or any order, rule, or regulation under any such title or Act, except that the Director may not enforce compliance with any housing goal established under subpart B of part 2 of subtitle A of this title, with section 1336 or 1337 of this title, or with subsection (m) or (n) of section 309 of the Federal National Mortgage Association Charter Act or subsection (e) or (f) of section 307 of the Federal Home Loan Mortgage Corporation Act;

(2) violates any final or temporary order issued pursuant to section 1365, 1366, 1371, or 1372;

(3) violates any written agreement between the enterprise and the Director; or

(4) engages in any conduct that causes or is likely to cause a loss to the enterprise.

(b) **AMOUNT OF PENALTY.**—

(1) **FIRST TIER.**—The Director may impose a penalty on an enterprise for any violation described in paragraphs (1) through (3) of subsection (a). The amount of a penalty under this paragraph shall not exceed \$5,000 for each day that a violation continues.

(2) **SECOND TIER.**—The Director may impose a penalty on an executive officer or director in an amount not to exceed \$10,000, or on an enterprise in an amount not to exceed \$25,000, for each day that a violation or conduct described in subsection (a) continues, if the Director finds that the violation or conduct—

(A) is part of a pattern of misconduct; or

(B) involved recklessness and caused or would be likely to cause a material loss to the enterprise.

(3) **THIRD TIER.**—The Director may impose a penalty on an executive officer or director in an amount not to exceed \$100,000, or on an enterprise in an amount not to exceed \$1,000,000, for each day that a violation or conduct described in subsection (a) continues, if the Director finds that the violation or conduct was knowing and caused or would be likely to cause a substantial loss to the enterprise.

(c) **PROCEDURES.**—

(1) **ESTABLISHMENT.**—The Director shall establish standards and procedures governing the imposition of civil money penalties under subsections (a) and (b). Such standards and procedures—

(A) shall provide for the Director to notify the enterprise in writing of the Director's determination to impose the penalty, which shall be made on the record;

(B) shall provide for the imposition of a penalty only after the enterprise, executive officer, or director has been given an opportunity for a hearing on the record pursuant to section 1373; and

(C) may provide for review by the Director of any determination or order, or interlocutory ruling, arising from a hearing.

(2) **FACTORS IN DETERMINING AMOUNT OF PENALTY.**—In determining the amount of a penalty under this section, the Director shall give consideration to such factors as the gravity of the violation, any history of prior violations, the effect of the penalty on the safety and soundness of the enterprise, any injury to the public, any benefits received, and deterrence of future violations, and any other factors the Director may determine by regulation to be appropriate.

(3) **REVIEW OF IMPOSITION OF PENALTY.**—The order of the Director imposing a penalty under this section shall not be subject to review, except as provided in section 1374.

(d) **ACTION TO COLLECT PENALTY.**—If an enterprise, executive officer, or director fails to comply with an order of the Director imposing a civil money penalty under this section, after the order is no longer subject to review as provided under subsection (c)(1) and section 1374, the Director may request the Attorney General of the United States to bring an action in the United States District Court for the District of Columbia to obtain a monetary judgment against the enterprise, executive officer, or director and such other relief as may be available, or may, under the direction and control of the Attorney General, bring such an action. The monetary judgment may, in the discretion of the court, include any attorneys fees and other expenses incurred by the United States in connection with the action. In an action under this subsection, the validity and appropriateness of the order of the Director imposing the penalty shall not be subject to review.

(e) **SETTLEMENT BY DIRECTOR.**—The Director may compromise, modify, or remit any civil money penalty which may be, or has been, imposed under this section.

(f) **AVAILABILITY OF OTHER REMEDIES.**—Any civil money penalty under this section shall be in addition to any other available civil remedy and may be imposed whether or not the Director imposes other administrative sanctions.

(g) **PROHIBITION OF REIMBURSEMENT OR INDEMNIFICATION.**—An enterprise may not reimburse or indemnify any individual for any penalty imposed under subsection (b)(3).

(h) **DEPOSIT OF PENALTIES.**—The Director shall deposit any civil money penalties collected under this section into the general fund of the Treasury.

(i) **APPLICABILITY.**—A penalty under this section may be imposed only for conduct or violations under subsection (a) occurring after the date of the enactment of this Act.

12 USC 4637.

**SEC. 1377. NOTICE AFTER SEPARATION FROM SERVICE.**

The resignation, termination of employment or participation, or separation of a director or executive officer of an enterprise shall not affect the jurisdiction and authority of the Director to

issue any notice and proceed under this subtitle against any such director or executive officer, if such notice is served before the end of the 2-year period beginning on the date such director or executive officer ceases to be associated with the enterprise.

**SEC. 1378. PRIVATE RIGHTS OF ACTION.**

12 USC 4638.

This title and the amendments made by this title shall not create any private right of action on behalf of any person against an enterprise, or any director or executive officer of an enterprise, or impair any existing private right of action under other applicable law.

**SEC. 1379. PUBLIC DISCLOSURE OF FINAL ORDERS AND AGREEMENTS.**

12 USC 4639.

(a) **IN GENERAL.**—The Director shall make available to the public—

(1) any written agreement or other written statement for which a violation may be redressed by the Director or any modification to or termination thereof, unless the Director, in the Director's discretion, determines that public disclosure would be contrary to the public interest;

(2) any order that is issued with respect to any administrative enforcement proceeding initiated by the Director under this subtitle and that has become final in accordance with sections 1373 and 1374; and

(3) any modification to or termination of any final order made public pursuant to this subsection.

(b) **HEARINGS.**—All hearings on the record with respect to any notice of charges issued by the Director shall be open to the public, unless the Director, in the Director's discretion, determines that holding an open hearing would be contrary to the public interest.

(c) **DELAY OF PUBLIC DISCLOSURE UNDER EXCEPTIONAL CIRCUMSTANCES.**—If the Director makes a determination in writing that the public disclosure of any final order pursuant to subsection (a) would seriously threaten the financial health or security of the enterprise, the Director may delay the public disclosure of such order for a reasonable time.

(d) **DOCUMENTS FILED UNDER SEAL IN PUBLIC ENFORCEMENT HEARINGS.**—The Director may file any document or part thereof under seal in any hearing commenced by the Director if the Director determines in writing that disclosure thereof would be contrary to the public interest.

(e) **RETENTION OF DOCUMENTS.**—The Director shall keep and maintain a record, for not less than 6 years, of all documents described in subsection (a) and all enforcement agreements and other supervisory actions and supporting documents issued with respect to or in connection with any enforcement proceeding initiated by the Director under this subtitle or any other law.

Records.

(f) **DISCLOSURES TO CONGRESS.**—This section may not be construed to authorize the withholding, or to prohibit the disclosure, of any information to the Congress or any committee or subcommittee thereof.

**SEC. 1379A. NOTICE OF SERVICE.**

12 USC 4640.

Any service required or authorized to be made by the Director under this subtitle may be made by registered mail, or in such other manner reasonably calculated to give actual notice as the Director may by regulation or otherwise provide.

12 USC 4641.

**SEC. 1379B. SUBPOENA AUTHORITY.**

(a) **IN GENERAL.**—In the course of or in connection with any administrative proceeding under this subtitle, the Director shall have the authority—

- (1) to administer oaths and affirmations;
- (2) to take and preserve testimony under oath;
- (3) to issue subpoenas and subpoenas duces tecum; and
- (4) to revoke, quash, or modify subpoenas and subpoenas duces tecum issued by the Director.

(b) **WITNESSES AND DOCUMENTS.**—The attendance of witnesses and the production of documents provided for in this section may be required from any place in any State at any designated place where such proceeding is being conducted.

(c) **ENFORCEMENT.**—The Director may request the Attorney General of the United States to bring an action in the United States district court for the judicial district in which such proceeding is being conducted, or where the witness resides or conducts business, or the United States District Court for the District of Columbia, for enforcement of any subpoena or subpoena duces tecum issued pursuant to this section or may, under the direction and control of the Attorney General, bring such an action. Such courts shall have jurisdiction and power to order and require compliance therewith.

(d) **FEES AND EXPENSES.**—Witnesses subpoenaed under this section shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States. Any court having jurisdiction of any proceeding instituted under this section by an enterprise may allow to any such party such reasonable expenses and attorneys fees as the court deems just and proper. Such expenses and fees shall be paid by the enterprise or from its assets.

## **Subtitle D—Amendments to Charter Acts of Enterprises**

**SEC. 1381. AMENDMENTS TO FEDERAL NATIONAL MORTGAGE  
ASSOCIATION CHARTER ACT.**

(a) **PURPOSES.**—Section 301 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1716) is amended—

(1) by striking “home” each place it appears and inserting “residential”;

(2) in paragraph (3)—

(A) by striking the parentheses and all the matter contained therein and inserting the following: “(including activities relating to mortgages on housing for low- and moderate-income families involving a reasonable economic return that may be less than the return earned on other activities)”; and

(B) by striking “and” at the end;

(3) by redesignating paragraph (4) as paragraph (5);

(4) by inserting after paragraph (3) the following new paragraph:

“(4) promote access to mortgage credit throughout the Nation (including central cities, rural areas, and underserved areas) by increasing the liquidity of mortgage investments and



improving the distribution of investment capital available for residential mortgage financing; and”.

(b) **HIGH COST AREAS.**—The last sentence of section 302(b)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(2)) is amended by striking “and Hawaii” and inserting “Hawaii, and the Virgin Islands”.

(c) **SECRETARY’S APPROVAL AUTHORITY.**—Section 302(b) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(2)) is amended—

(1) in the first sentence of paragraph (2), by striking “and with the approval of the Secretary of Housing and Urban Development,”;

(2) in the first sentence of paragraph (3), by striking “, with the approval of the Secretary of Housing and Urban Development,”;

(3) in the first sentence of paragraph (4), by striking “, with the approval of the Secretary of Housing and Urban Development,”; and

(4) by adding at the end the following new paragraph:

“(6) The corporation may not implement any new program (as such term is defined in section 1303 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992) before obtaining the approval of the Secretary under section 1322 of such Act.”.

(d) **CAPITALIZATION.**—Section 303 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1718) is amended—

(1) in subsection (a), by inserting after the period at the end the following new sentence: “The corporation may issue shares of common stock in return for appropriate payments into capital or capital and surplus.”;

(2) by striking subsections (b) and (c) and inserting the following new subsections:

“(b)(1) The corporation may impose charges or fees, which may be regarded as elements of pricing, with the objective that all costs and expenses of the operations of the corporation should be within its income derived from such operations and that such operations should be fully self-supporting.

“(2) All earnings from the operations of the corporation shall annually be transferred to the general surplus account of the corporation. At any time, funds of the general surplus account may, in the discretion of the board of directors, be transferred to reserves.

“(c)(1) Except as provided in paragraph (2), the corporation may make such capital distributions (as such term is defined in section 1303 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992) as may be declared by the board of directors. All capital distributions shall be charged against the general surplus account of the corporation.

“(2) The corporation may not make any capital distribution that would decrease the total capital of the corporation (as such term is defined in section 1303 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992) to an amount less than the risk-based capital level for the corporation established under section 1361 of such Act or that would decrease the core capital of the corporation (as such term is defined in section 1303 of such Act) to an amount less than the minimum capital level for the corporation established under section 1362 of such Act, without prior written approval of the distribution by the Director

of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development.”;

(3) in subsection (f)—

(A) by striking “to make payments” and all that follows through “such capital contributions,”; and

(B) by striking “additional shares of such stock,” and inserting “shares of common stock of the corporation”; and

(4) by redesignating subsection (f) (as so amended) as subsection (d).

(e) **RATIO OF OBLIGATIONS.**—Section 304 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1719) is amended—

(1) in subsection (b), by striking the semicolon in the first sentence and all that follows through the end of the second sentence and inserting a period; and

(2) in subsection (e), by striking the fourth sentence.

(f) **STATEMENT IN SECURITIES.**—Section 304(d) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1719(d)) is amended by inserting after the period at the end the following new sentence: “The corporation shall insert appropriate language in all of the securities issued under this subsection clearly indicating that such securities, together with the interest thereon, are not guaranteed by the United States and do not constitute a debt or obligation of the United States or any agency or instrumentality thereof other than the corporation.”.

(g) **ASSESSMENTS FOR OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT.**—The first sentence of section 304(f) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1719(f)) is amended by inserting before the first comma the following: “of this Act and assessments pursuant to section 1316 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992”.

(h) **BOARD OF DIRECTORS.**—

(1) **IN GENERAL.**—The second sentence of section 308(b) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723(b)) is amended—

(A) by striking “and” after the second comma; and

(B) by inserting before the period at the end the following: “, and at least one person from an organization that has represented consumer or community interests for not less than 2 years or one person who has demonstrated a career commitment to the provision of housing for low-income households”.

(2) **IMPLEMENTATION.**—The amendments made by paragraph (1) shall apply to the first annual appointment by the President of members to the board of directors of the Federal National Mortgage Association that occurs after the date of the enactment of this Act.

(i) **REMOVAL AUTHORITY OF PRESIDENT.**—The third sentence of section 308(b) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723(b)) is amended by inserting “appointed” after “any such”.

(j) **COMPENSATION.**—Section 309(d) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a(d)) is amended—

(1) in the first sentence of paragraph (2) by striking “as it may determine” and inserting the following: “as the board of directors determines reasonable and comparable with compensation for employment in other similar businesses (including

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other publicly held financial institutions or major financial services companies) involving similar duties and responsibilities, except that a significant portion of potential compensation of all executive officers (as such term is defined in paragraph (3)(C)) of the corporation shall be based on the performance of the corporation"; and

(2) by adding at the end the following new paragraph:

"(3)(A) Not later than June 30, 1993, and annually thereafter, the corporation shall submit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on (i) the comparability of the compensation policies of the corporation with the compensation policies of other similar businesses, (ii) in the aggregate, the percentage of total cash compensation and payments under employee benefit plans (which shall be defined in a manner consistent with the corporation's proxy statement for the annual meeting of shareholders for the preceding year) earned by executive officers of the corporation during the preceding year that was based on the corporation's performance, and (iii) the comparability of the corporation's financial performance with the performance of other similar businesses. The report shall include a copy of the corporation's proxy statement for the annual meeting of shareholders for the preceding year.

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"(B) Notwithstanding the first sentence of paragraph (2), after the date of the enactment of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, the corporation may not enter into any agreement or contract to provide any payment of money or other thing of current or potential value in connection with the termination of employment of any executive officer of the corporation, unless such agreement or contract is approved in advance by the Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development. The Director may not approve any such agreement or contract unless the Director determines that the benefits provided under the agreement or contract are comparable to benefits under such agreements for officers of other public and private entities involved in financial services and housing interests who have comparable duties and responsibilities. For purposes of this subparagraph, any renegotiation, amendment, or change after such date of enactment to any such agreement or contract entered into on or before such date of enactment shall be considered entering into an agreement or contract.

"(C) For purposes of this paragraph, the term 'executive officer' has the meaning given the term in section 1303 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992."

(k) GENERAL REGULATORY AUTHORITY.—Section 309 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a) is amended by striking subsections (h) and (i).

(l) GAO AUDITS.—Section 309(j) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a(j)) is amended—

(1) by inserting "(1)" after "(j)";

(2) by striking the first sentence and inserting the following new sentence: "The programs, activities, receipts, expenditures, and financial transactions of the corporation shall be subject to audit by the Comptroller General of the United States under such rules and regulations as may be prescribed by the Comptroller General."; and

(3) by adding at the end the following new paragraph:

“(2) To carry out this subsection, the representatives of the General Accounting Office shall have access, upon request to the corporation or any auditor for an audit of the corporation under subsection (1), to any books, accounts, financial records, reports, files, or other papers, things, or property belonging to or in use by the corporation and used in any such audit and to any papers, records, files, and reports of the auditor used in such an audit.”.

(m) FINANCIAL REPORTS TO DIRECTOR.—Section 309 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a) is amended by adding at the end the following new subsection:

“(k)(1) The corporation shall submit to the Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development annual and quarterly reports of the financial condition and operations of the corporation which shall be in such form, contain such information, and be submitted on such dates as the Director shall require.

“(2) Each such annual report shall include—

“(A) financial statements prepared in accordance with generally accepted accounting principles;

“(B) any supplemental information or alternative presentation that the Director may require; and

“(C) an assessment (as of the end of the corporation's most recent fiscal year), signed by the chief executive officer and chief accounting or financial officer of the corporation, of—

“(i) the effectiveness of the internal control structure and procedures of the corporation; and

“(ii) the compliance of the corporation with designated safety and soundness laws.

“(3) The corporation shall also submit to the Director any other reports required by the Director pursuant to section 1314 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.

“(4) Each report of financial condition shall contain a declaration by the president, vice president, treasurer, or any other officer designated by the board of directors of the corporation to make such declaration, that the report is true and correct to the best of such officer's knowledge and belief.”.

(n) AUDITS OF FINANCIAL STATEMENTS.—Section 309 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a) is amended by adding after subsection (k) (as added by subsection (m) of this section) the following new subsection:

“(1)(1) The corporation shall have an annual independent audit made of its financial statements by an independent public accountant in accordance with generally accepted auditing standards.

“(2) In conducting an audit under this subsection, the independent public accountant shall determine and report on whether the financial statements of the corporation (A) are presented fairly in accordance with generally accepted accounting principles, and (B) to the extent determined necessary by the Director, comply with any disclosure requirements imposed under subsection (k)(2)(B).”.

(o) MORTGAGE DATA COLLECTION AND REPORTING REQUIREMENTS.—Section 309 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a) is amended by adding after sub-

section (l) (as added by subsection (n) of this section) the following new subsection:

"(m)(1) The corporation shall collect, maintain, and provide to the Secretary, in a form determined by the Secretary, data relating to its mortgages on housing consisting of 1 to 4 dwelling units. Such data shall include—

"(A) the income, census tract location, race, and gender of mortgagors under such mortgages;

"(B) the loan-to-value ratios of purchased mortgages at the time of origination;

"(C) whether a particular mortgage purchased is newly originated or seasoned;

"(D) the number of units in the housing subject to the mortgage and whether the units are owner-occupied; and

"(E) any other characteristics that the Secretary considers appropriate, to the extent practicable.

"(2) The corporation shall collect, maintain, and provide to the Secretary, in a form determined by the Secretary, data relating to its mortgages on housing consisting of more than 4 dwelling units. Such data shall include—

"(A) census tract location of the housing;

"(B) income levels and characteristics of tenants of the housing (to the extent practicable);

"(C) rent levels for units in the housing;

"(D) mortgage characteristics (such as the number of units financed per mortgage and the amount of loans);

"(E) mortgagor characteristics (such as nonprofit, for-profit, limited equity cooperatives);

"(F) use of funds (such as new construction, rehabilitation, refinancing);

"(G) type of originating institution; and

"(H) any other information that the Secretary considers appropriate, to the extent practicable.

"(3)(A) Except as provided in subparagraph (B), this subsection shall apply only to mortgages purchased by the corporation after December 31, 1992.

"(B) This subsection shall apply to any mortgage purchased by the corporation after the date determined under subparagraph (A) if the mortgage was originated before such date, but only to the extent that the data referred in paragraph (1) or (2), as applicable, is available to the corporation."

(p) REPORT ON HOUSING ACTIVITIES.—Section 309 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a) is amended by adding after subsection (m) (as added by subsection (o) of this section) the following new subsection:

"(n)(1) The corporation shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Secretary a report on its activities under subpart B of part 2 of subtitle A of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.

"(2) The report under this subsection shall—

"(A) include, in aggregate form and by appropriate category, statements of the dollar volume and number of mortgages on owner-occupied and rental properties purchased which relate to each of the annual housing goals established under such subpart;

"(B) include, in aggregate form and by appropriate category, statements of the number of families served by the corporation, the income class, race, and gender of homebuyers served, the income class of tenants of rental housing (to the extent such information is available), the characteristics of the census tracts, and the geographic distribution of the housing financed;

"(C) include a statement of the extent to which the mortgages purchased by the corporation have been used in conjunction with public subsidy programs under Federal law;

"(D) include statements of the proportion of mortgages on housing consisting of 1 to 4 dwelling units purchased by the corporation that have been made to first-time homebuyers, as soon as providing such data is practicable, and identifying any special programs (or revisions to conventional practices) facilitating homeownership opportunities for first-time homebuyers;

"(E) include, in aggregate form and by appropriate category, the data provided to the Secretary under subsection (m)(1)(B);

"(F) compare the level of securitization versus portfolio activity;

"(G) assess underwriting standards, business practices, repurchase requirements, pricing, fees, and procedures, that affect the purchase of mortgages for low- and moderate-income families, or that may yield disparate results based on the race of the borrower, including revisions thereto to promote affordable housing or fair lending;

"(H) describe trends in both the primary and secondary multifamily housing mortgage markets, including a description of the progress made, and any factors impeding progress toward standardization and securitization of mortgage products for multifamily housing;

"(I) describe trends in the delinquency and default rates of mortgages secured by housing for low- and moderate-income families that have been purchased by the corporation, including a comparison of such trends with delinquency and default information for mortgage products serving households with incomes above the median level that have been purchased by the corporation, and evaluate the impact of such trends on the standards and levels of risk of mortgage products serving low- and moderate-income families;

"(J) describe in the aggregate the seller and servicer network of the corporation, including the volume of mortgages purchased from minority-owned, women-owned, and community-oriented lenders, and any efforts to facilitate relationships with such lenders;

"(K) describe the activities undertaken by the corporation with nonprofit and for-profit organizations and with State and local governments and housing finance agencies, including how the corporation's activities support the objectives of comprehensive housing affordability strategies under section 105 of the Cranston-Gonzalez National Affordable Housing Act; and

"(L) include any other information that the Secretary considers appropriate.

"(3)(A) The corporation shall make each report under this subsection available to the public at the principal and regional offices of the corporation.

Public  
information.

"(B) Before making a report under this subsection available to the public, the corporation may exclude from the report information that the Secretary has determined is proprietary information under section 1326 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992."

(q) HOUSING ADVISORY COUNCIL.—Section 309 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a) is amended by adding after subsection (n) (as added by subsection (p) of this section) the following new subsection:

"(o)(1) Not later than 4 months after the date of enactment of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, the corporation shall appoint an Affordable Housing Advisory Council to advise the corporation regarding possible methods for promoting affordable housing for low- and moderate-income families."

"(2) The Affordable Housing Advisory Council shall consist of 15 individuals, who shall include representatives of community-based and other nonprofit and for-profit organizations and State and local government agencies actively engaged in the promotion, development, or financing of housing for low- and moderate-income families."

(r) STOCK ISSUANCES.—The second sentence of section 311 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723c) is amended by striking all that follows "Commission" and inserting a period.

(s) TECHNICAL AMENDMENTS.—

(1) Section 302(c) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(c)) is amended—

(A) in paragraph (2)—

(i) in the first sentence following subparagraph (F), by striking "him" and inserting "the trustor"; and

(ii) in the last sentence, by striking "his" each place it appears and inserting "the trustor's"; and

(B) in paragraph (3), by striking "he" each place it appears and inserting "the trustor".

(2) Section 304(c) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1719(c)) is amended—

(A) by striking "his" each place it appears and inserting "the Secretary's"; and

(B) in the fourth sentence—

(i) by striking "he" and inserting "the Secretary"; and

(ii) by striking "him" and inserting "the Secretary".

(3) Section 309 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a) is amended—

(A) in subsection (d)(2)—

(i) in the third sentence, by striking "his employment" each place it appears and inserting "the employment of such officer or employee"; and

(ii) in the last sentence, by striking "his basic pay" and inserting "the basic pay of such person"; and

(B) in subsection (e), by striking "he or it" and inserting "the individual, association, partnership, or corporation".

**SEC. 1382. AMENDMENTS TO FEDERAL HOME LOAN MORTGAGE CORPORATION ACT.**

(a) **PURPOSES.**—Section 301(b) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 note) is amended—

(1) by striking “home” each place it appears in paragraphs (1) and (3) and inserting “residential”;

(2) by striking “and” at the end of paragraph (2);

(3) in paragraph (3)—

(A) by striking the parentheses and all the matter contained therein and inserting the following: “(including activities relating to mortgages on housing for low- and moderate-income families involving a reasonable economic return that may be less than the return earned on other activities)”;

(B) by striking the period at the end and inserting “; and”;

(4) by adding at the end the following new paragraph:

“(4) to promote access to mortgage credit throughout the Nation (including central cities, rural areas, and underserved areas) by increasing the liquidity of mortgage investments and improving the distribution of investment capital available for residential mortgage financing.”.

(b) **DEFINITIONS.**—The third sentence of section 302(h) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451(h)) is amended by striking “made” and all that follows through “305(a)(1)” and inserting “purchased from any public utility carrying out activities in accordance with the requirements of title II of the National Energy Conservation Policy Act if the residential mortgage to be purchased is a loan or advance of credit the original proceeds of which are applied for in order to finance the purchase and installation of residential energy conservation measures (as defined in section 210(11) of the National Energy Conservation Policy Act) in residential real estate”.

(c) **BOARD OF DIRECTORS.**—

(1) **IN GENERAL.**—The second sentence of section 303(a)(2)(A) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(a)(2)(A)) is amended—

(A) by striking “and” after the second comma; and

(B) by inserting before the period at the end the following: “, and at least 1 person from an organization that has represented consumer or community interests for not less than 2 years or 1 person who has demonstrated a career commitment to the provision of housing for low-income households”.

(2) **IMPLEMENTATION.**—The amendments made by paragraph (1) shall apply to the first annual appointment by the President of members to the Board of Directors of the Federal Home Loan Mortgage Corporation that occurs after the date of the enactment of this Act.

(d) **REMOVAL AUTHORITY OF PRESIDENT.**—Section 303(a)(2)(B) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(a)(2)(B)) is amended by inserting before the period at the end the following: “, except that any appointed member may be removed from office by the President for good cause”.

(e) **GENERAL REGULATORY AUTHORITY.**—Section 303(b) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(b)) is amended to read as follows:



"(b)(1) Except as provided in paragraph (2), the Corporation may make such capital distributions (as such term is defined in section 1303 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992) as may be declared by the Board of Directors.

"(2) The Corporation may not make any capital distribution that would decrease the total capital of the Corporation (as such term is defined in section 1303 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992) to an amount less than the risk-based capital level for the Corporation established under section 1361 of such Act or that would decrease the core capital of the Corporation (as such term is defined in section 1303 of such Act) to an amount less than the minimum capital level for the Corporation established under section 1362 of such Act, without prior written approval of the distribution by the Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development."

(f) COMPENSATION.—Section 303 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452) is amended—

(1) in clause (9) of the first sentence of subsection (c), by inserting after "agents" the following: "as the Board of Directors determines reasonable and comparable with compensation for employment in other similar businesses (including publicly held financial institutions or other major financial services companies) involving similar duties and responsibilities, except that a significant portion of potential compensation of all executive officers (as such term is defined in subsection (h)(3)) of the Corporation shall be based on the performance of the Corporation"; and

(2) by adding at the end the following new subsection:

"(h)(1) Not later than June 30, 1993, and annually thereafter, the Corporation shall submit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on (A) the comparability of the compensation policies of the Corporation with the compensation policies of other similar businesses, (B) in the aggregate, the percentage of total cash compensation and payments under employee benefit plans (which shall be defined in a manner consistent with the Corporation's proxy statement for the annual meeting of shareholders for the preceding year) earned by executive officers of the Corporation during the preceding year that was based on the Corporation's performance, and (C) the comparability of the Corporation's financial performance with the performance of other similar businesses. The report shall include a copy of the Corporation's proxy statement for the annual meeting of shareholders for the preceding year.

Reports.

"(2) Notwithstanding the first sentence of subsection (c), after the date of the enactment of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, the Corporation may not enter into any agreement or contract to provide any payment of money or other thing of current or potential value in connection with the termination of employment of any executive officer of the Corporation, unless such agreement or contract is approved in advance by the Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development. The Director may not approve any such agreement or contract unless the Director determines that the benefits provided under

the agreement or contract are comparable to benefits under such agreements for officers of other public and private entities involved in financial services and housing interests who have comparable duties and responsibilities. For purposes of this paragraph, any renegotiation, amendment, or change after such date of enactment to any such agreement or contract entered into on or before such date of enactment shall be considered entering into an agreement or contract.

“(3) For purposes of this subsection, the term ‘executive officer’ has the meaning given the term in section 1303 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.”.

(g) **POWERS OF CORPORATION.**—Section 303(c) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(c)) is amended by striking the second sentence.

(h) **REPEAL OF PROHIBITION ON PREJUDGMENT ATTACHMENT.**—Section 303(f) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(f)) is amended by striking the last sentence.

(i) **CAPITAL STOCK.**—Section 304 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1453) is amended—

(1) by striking subsections (b), (c), and (d);

(2) in subsection (a)(1), by striking “(1) The common stock” and all that follows and inserting the following: “The common stock of the Corporation shall consist of voting common stock, which shall be issued to such holders in the manner and amount, and subject to any limitations on concentration of ownership, as may be established by the Corporation.”; and

(3) in subsection (a)(2)—

(A) in the first sentence, by striking “nonvoting common stock and the”;

(B) by striking the last sentence; and

(C) by striking the paragraph designation and inserting “(b)”.

(j) **MORTGAGE SELLERS.**—Section 305(a)(1) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(1)) is amended—

(1) in the first sentence, by striking “from any Federal home loan bank” and all that follows through the end of the sentence and inserting a period; and

(2) in the second sentence, by striking “, and the servicing” and all that follows through the end of the sentence and inserting a period.

(k) **HIGH COST AREAS.**—The last sentence of section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)) is amended by striking “and Hawaii” and inserting “Hawaii, and the Virgin Islands”.

(l) **REPEAL OF PROHIBITION ON MORTGAGE LIMITATIONS.**—Section 305 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454) is amended by striking subsection (c).

(m) **PRIOR APPROVAL OF SECRETARY FOR NEW PROGRAMS.**—Section 305 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454) is amended by inserting after subsection (b) the following new subsection:

“(c) The Corporation may not implement any new program (as such term is defined in section 1303 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992) before obtaining the approval of the Secretary under section 1322 of such Act.”.

(n) OBLIGATIONS AND SECURITIES AND ASSESSMENTS FOR OFFICE.—Section 306 of the Federal Home Loan Mortgage Corporation (12 U.S.C. 1455) is amended—

(1) in subsection (h)—

(A) by inserting “(1)” after “(h)”; and

(B) by adding at the end the following new paragraph:

“(2) The Corporation shall insert appropriate language in all of the obligations and securities of the Corporation issued under this section and section 305 clearly indicating that such obligations and securities, together with the interest thereon, are not guaranteed by the United States and do not constitute a debt or obligation of the United States or any agency or instrumentality thereof other than the Corporation.”; and

(2) in the first sentence of subsection (i), by striking “section 303(c) or 306(c)” and inserting the following: “sections 303(c) and 1316(c) of this Act and assessments pursuant to section 106 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992”.

(o) GAO AUDITS.—Section 307(b) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1456(b)) is amended—

(1) by inserting “(1)” after “(b)”; and

(2) by striking the first sentence and inserting the following new sentence: “The programs, activities, receipts, expenditures, and financial transactions of the Corporation shall be subject to audit by the Comptroller General of the United States under such rules and regulations as may be prescribed by the Comptroller General.”; and

(3) by adding at the end the following new paragraph:

“(2) To carry out this subsection, the representatives of the General Accounting Office shall have access, upon request to the Corporation or any auditor for an audit of the Corporation under subsection (d), to any books, accounts, financial records, reports, files, or other papers, things, or property belonging to or in use by the Corporation and used in any such audit and to any papers, records, files, and reports of the auditor used in such an audit.”.

(p) FINANCIAL REPORTS TO DIRECTOR.—Section 307 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1456) is amended by adding at the end the following new subsection:

“(c)(1) The Corporation shall submit to the Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development annual and quarterly reports of the financial condition and operations of the Corporation which shall be in such form, contain such information, and be submitted on such dates as the Director shall require.

“(2) Each such annual report shall include—

“(A) financial statements prepared in accordance with generally accepted accounting principles;

“(B) any supplemental information or alternative presentation that the Director may require; and

“(C) an assessment (as of the end of the Corporation’s most recent fiscal year), signed by the chief executive officer and chief accounting or financial officer of the Corporation, of—

“(i) the effectiveness of the internal control structure and procedures of the Corporation; and

“(ii) the compliance of the Corporation with designated safety and soundness laws.

"(3) The Corporation shall also submit to the Director any other reports required by the Director pursuant to section 1314 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.

"(4) Each report of financial condition shall contain a declaration by the president, vice president, treasurer, or any other officer designated by the Board of Directors of the Corporation to make such declaration, that the report is true and correct to the best of such officer's knowledge and belief."

(q) AUDITS OF FINANCIAL STATEMENTS.—Section 307 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1456) is amended by adding after subsection (c) (as added by subsection (p) of this section) the following new subsection:

"(d)(1) The Corporation shall have an annual independent audit made of its financial statements by an independent public accountant in accordance with generally accepted auditing standards.

"(2) In conducting an audit under this subsection, the independent public accountant shall determine and report on whether the financial statements of the Corporation (A) are presented fairly in accordance with generally accepted accounting principles, and (B) to the extent determined necessary by the Director, comply with any disclosure requirements imposed under subsection (c)(2)(B)."

(r) MORTGAGE DATA COLLECTION AND REPORTING REQUIREMENTS.—Section 307 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1456) is amended by adding after subsection (d) (as added by subsection (q) of this section) the following new subsection:

"(e)(1) The Corporation shall collect, maintain, and provide to the Secretary, in a form determined by the Secretary, data relating to its mortgages on housing consisting of 1 to 4 dwelling units. Such data shall include—

"(A) the income, census tract location, race, and gender of mortgagors under such mortgages;

"(B) the loan-to-value ratios of purchased mortgages at the time of origination;

"(C) whether a particular mortgage purchased is newly originated or seasoned;

"(D) the number of units in the housing subject to the mortgage and whether the units are owner-occupied; and

"(E) any other characteristics that the Secretary considers appropriate, to the extent practicable.

"(2) The Corporation shall collect, maintain, and provide to the Secretary, in a form determined by the Secretary, data relating to its mortgages on housing consisting of more than 4 dwelling units. Such data shall include—

"(A) census tract location of the housing;

"(B) income levels and characteristics of tenants of the housing (to the extent practicable);

"(C) rent levels for units in the housing;

"(D) mortgage characteristics (such as the number of units financed per mortgage and the amount of loans);

"(E) mortgagor characteristics (such as nonprofit, for-profit, limited equity cooperatives);

"(F) use of funds (such as new construction, rehabilitation, refinancing);

"(G) type of originating institution; and

"(H) any other information that the Secretary considers appropriate, to the extent practicable.

"(3)(A) Except as provided in subparagraph (B), this subsection shall apply only to mortgages purchased by the Corporation after December 31, 1992.

"(B) This subsection shall apply to any mortgage purchased by the Corporation after the date determined under subparagraph (A) if the mortgage was originated before such date, but only to the extent that the data referred in paragraph (1) or (2), as applicable, is available to the Corporation."

(s) REPORT ON HOUSING ACTIVITIES.—Section 307 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1456) is amended by adding after subsection (e) (as added by subsection (r) of this section) the following new subsection:

"(f)(1) The Corporation shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Secretary a report on its activities under subpart B of part 2 of subtitle A of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.

"(2) The report under this subsection shall—

"(A) include, in aggregate form and by appropriate category, statements of the dollar volume and number of mortgages on owner-occupied and rental properties purchased which relate to each of the annual housing goals established under such subpart;

"(B) include, in aggregate form and by appropriate category, statements of the number of families served by the Corporation, the income class, race, and gender of homebuyers served, the income class of tenants of rental housing (to the extent such information is available), the characteristics of the census tracts, and the geographic distribution of the housing financed;

"(C) include a statement of the extent to which the mortgages purchased by the Corporation have been used in conjunction with public subsidy programs under Federal law;

"(D) include statements of the proportion of mortgages on housing consisting of 1 to 4 dwelling units purchased by the Corporation that have been made to first-time homebuyers, as soon as providing such data is practicable, and identifying any special programs (or revisions to conventional practices) facilitating homeownership opportunities for first-time homebuyers;

"(E) include, in aggregate form and by appropriate category, the data provided to the Secretary under subsection (e)(1)(B);

"(F) compare the level of securitization versus portfolio activity;

"(G) assess underwriting standards, business practices, repurchase requirements, pricing, fees, and procedures, that affect the purchase of mortgages for low- and moderate-income families, or that may yield disparate results based on the race of the borrower, including revisions thereto to promote affordable housing or fair lending;

"(H) describe trends in both the primary and secondary multifamily housing mortgage markets, including a description of the progress made, and any factors impeding progress, toward standardization and securitization of mortgage products for multifamily housing;

"(I) describe trends in the delinquency and default rates of mortgages secured by housing for low- and moderate-income families that have been purchased by the Corporation, including a comparison of such trends with delinquency and default information for mortgage products serving households with incomes above the median level that have been purchased by the Corporation, and evaluate the impact of such trends on the standards and levels of risk of mortgage products serving low- and moderate-income families;

"(J) describe in the aggregate the seller and servicer network of the Corporation, including the volume of mortgages purchased from minority-owned, women-owned, and community-oriented lenders, and any efforts to facilitate relationships with such lenders;

"(K) describe the activities undertaken by the Corporation with nonprofit and for-profit organizations and with State and local governments and housing finance agencies, including how the Corporation's activities support the objectives of comprehensive housing affordability strategies under section 105 of the Cranston-Gonzalez National Affordable Housing Act; and

"(L) include any other information that the Secretary considers appropriate.

Public  
information.

"(3)(A) The Corporation shall make each report under this subsection available to the public at the principal and regional offices of the Corporation.

"(B) Before making a report under this subsection available to the public, the Corporation may exclude from the report information that the Secretary has determined is proprietary information under section 1326 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992."

(t) HOUSING ADVISORY COUNCIL.—Section 307 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1456) is amended by adding after subsection (f) (as added by subsection (s) of this section) the following new subsection:

"(g)(1) Not later than 4 months after the date of enactment of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, the Corporation shall appoint an Affordable Housing Advisory Council to advise the Corporation regarding possible methods for promoting affordable housing for low- and moderate-income families.

"(2) The Affordable Housing Advisory Council shall consist of 15 individuals, who shall include representatives of community-based and other nonprofit and for-profit organizations and State and local government agencies actively engaged in the promotion, development, or financing of housing for low- and moderate-income families."

Regulations.  
12 USC 1451  
note.

#### SEC. 1383. IMPLEMENTATION.

(a) IN GENERAL.—The Secretary of Housing and Urban Development and the Director, as appropriate, shall issue any final regulations necessary to implement the amendments made by this subtitle not later than the expiration of the 18-month period beginning on the date of the enactment of this Act.

(b) NOTICE AND COMMENT.—The regulations under this section shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code.

## Subtitle E—Regulation of Federal Home Loan Bank System

### SEC. 1391. PRIMACY OF FINANCIAL SAFETY AND SOUNDNESS FOR FEDERAL HOUSING FINANCE BOARD.

Section 2A(a)(3) of the Federal Home Loan Bank Act (12 U.S.C. 1422a(a)(3)) is amended to read as follows:

**“(3) DUTIES.—**

**“(A) SAFETY AND SOUNDNESS.—**The primary duty of the Board shall be to ensure that the Federal Home Loan Banks operate in a financially safe and sound manner.

**“(B) OTHER DUTIES.—**To the extent consistent with subparagraph (A), the duties of the Board shall also be—

**“(i) to supervise the Federal Home Loan Banks;**

**“(ii) to ensure that the Federal Home Loan Banks carry out their housing finance mission; and**

**“(iii) to ensure that the Federal Home Loan Banks remain adequately capitalized and able to raise funds in the capital markets.”.**

### SEC. 1392. ADVANCES UNDER FEDERAL HOME LOAN BANK ACT.

(a) **ADVANCES TO NONQUALIFIED THRIFT LENDER MEMBERS.—**Section 10(e)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1430(e)(2)) is amended by striking the second sentence and inserting the following new sentence: “The aggregate amount of the advances by the Federal Home Loan Bank System to members that are not qualified thrift lenders shall not exceed 30 percent of the total advances of the Federal Home Loan Bank System.”.

(b) **EXCEPTION TO REQUIREMENTS FOR ADVANCES.—**Section 10b of the Federal Home Loan Bank Act (12 U.S.C. 1430b) is amended—

(1) in the first sentence, by inserting before “Each” the following new subsection designation and heading: “(a) IN GENERAL.—”; and

(2) by adding at the end the following new subsection:

**“(b) EXCEPTION.—**An advance made to a State housing finance agency for the purpose of facilitating mortgage lending that benefits individuals and families that meet the income requirements set forth in section 142(d) or 143(f) of the Internal Revenue Code of 1986, need not be collateralized by a mortgage insured under title II of the National Housing Act or otherwise, if—

**“(1) such advance otherwise meets the requirements of this subsection; and**

**“(2) such advance meets the requirements of section 10(a) of this Act, and any real estate collateral for such loan comprises single family or multifamily residential mortgages.”.**

### SEC. 1393. STUDIES REGARDING FEDERAL HOME LOAN BANK SYSTEM.

(a) **IN GENERAL.—**The Federal Housing Finance Board, the Comptroller General of the United States, the Director of the Congressional Budget Office, and the Secretary of Housing and Urban Development shall each conduct a study analyzing and making appropriate recommendations with respect to the following topics:

(1) The appropriate capital standards for the Federal Home Loan Bank System.

(2) The relationship between the capital standards for the Federal Home Loan Bank System and the capital standards under this title for the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(3) The relationship between the capital standards for federally insured depository institutions and the capital standards under this title for the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(4) The advantages and disadvantages of expanding credit products and services for member institutions of the Federal Home Loan Bank System, including a determination of the feasibility of Federal Home Loan Banks (A) purchasing housing-related assets from member institutions, (B) providing credit enhancements and other products to members in addition to making advances, and (C) making direct loans for housing construction.

(5) The advantages and disadvantages of expanding eligible collateral for advances to member institutions of the Federal Home Loan Bank System by removing the limits on the amount of housing-related assets that member institutions can use to collateralize advances.

(6) The advantages and disadvantages of further measures to expand the role of the Federal Home Loan Bank System as a support mechanism for community-based lenders and to reinforce the overall role of the System in housing finance.

(7) The advantages and disadvantages of measures to increase membership in, and increase the profitability of, the System by modifying—

(A) restrictions on membership and stock purchases of nonqualified thrift lenders;

(B) the overall advance limit imposed on the Federal Home Loan Bank System to nonqualified thrift lenders; and

(C) the membership requirement for qualified thrift lenders.

(8) The competitive effect of the mortgage activities of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation on the home mortgage activities of federally insured depository institutions and the cost of such activities to such institutions, the Savings Association Insurance Fund, and the Resolution Trust Corporation.

(9) The likelihood that the Federal Home Loan Banks will be able to continue to pay the amounts required under the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

(10) The extent to which a reduction in the number of Federal Home Loan Banks would reduce noninterest costs of the System.

(11) The impact that a reduction in the number of Federal Home Loan Banks would have on the effectiveness of affordable housing programs and community support programs under the Federal Home Loan Bank System.

(12) The impact that a reduction in the number of Federal Home Loan Banks would have on the availability of affordable housing in rural areas and the ability of small rural financial institutions to provide housing financing.



(13) The current and prospective impact of the Federal Home Loan Bank System on—

(A) the availability and affordability of housing for low- and moderate-income households; and

(B) the relative availability of housing credit across geographic areas, with particular regard to differences depending on whether properties are inside or outside of central cities.

(14) The appropriateness of extending to the Federal Home Loan Bank System the public purposes and housing goals established for the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation under this title, the Federal National Mortgage Association Charter Act, and the Federal Home Loan Mortgage Corporation Act.

(b) REPORTS.—Not later than 6 months after the date of the enactment of this Act, the Federal Housing Finance Board, the Comptroller General, the Director of the Congressional Budget Office, and the Secretary of Housing and Urban Development shall each submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the studies required under subsection (a) containing any recommendations for legislative action based on the results of the studies.

(c) COMMENTS.—The Secretary of the Treasury, the Director of the Office of Federal Housing Enterprise Oversight, the Federal Home Loan Mortgage Corporation, and the Federal National Mortgage Association shall each submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate any recommendations and opinions regarding the studies under subsection (a), to the extent that the recommendations and views of such officers and entities differ from the recommendations and opinions of the Federal Housing Finance Board, the Comptroller General, the Director of Congressional Budget Office, and the Secretary of Housing and Urban Development.

(d) DEFINITION.—For purposes of this section, the term “housing-related assets” means residential mortgages, residential mortgage-related securities, loans or loan participations secured by residential real estate, housing production loans, and warehouse lines of credit for residential mortgage banking activities.

#### SEC. 1394. REPORT OF FEDERAL HOME LOAN BANK MEMBERS.

(a) IN GENERAL.—The Federal Home Loan Banks shall establish a committee to be known as the Study Committee. The Study Committee shall be comprised of 24 members, of whom 2 shall be elected by the Board of Directors of each Federal Home Loan Bank from among officers or directors of stockholder institutions of the Federal Home Loan Bank. Each Federal Home Loan Bank shall elect members to the Study Committee not later than 45 days after the date of the enactment of this Act.

Establishment.

(b) STUDY AND REPORT.—The Study Committee referred to in subsection (a) shall conduct a study on the topics referred to in section 1391(a) and on the costs and benefits of consolidation of the Federal Home Loan Bank System. Not later than 6 months after the date of the enactment of this Act, the Study Committee shall submit a report to the Committee on Banking, Finance and

Urban Affairs of the House of Representatives, the Committee on Banking, Housing, and Urban Affairs of the Senate, the Federal Housing Finance Board, and the presidents of the Federal Home Loan Banks on its findings, including any recommendations for legislative or administrative action, together with any minority views or recommendations.

**SEC. 1395. REPORTS REGARDING CONSOLIDATION OF FEDERAL HOME LOAN BANK SYSTEM.**

Not later than 6 months after the date of the enactment of this Act, the Board of Directors of each Federal Home Loan Bank shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report of the directors' evaluation of the costs and benefits of consolidating the Federal Home Loan Bank System.

Stewart B.  
McKinney  
Homeless  
Housing  
Assistance  
Amendments  
Act of 1992.

**TITLE XIV—HOUSING PROGRAMS  
UNDER STEWART B. MCKINNEY  
HOMELESS ASSISTANCE ACT**

**Subtitle A—Housing Assistance**

42 USC 11301  
note.

**SEC. 1401. SHORT TITLE.**

This title may be cited as the "Stewart B. McKinney Homeless Housing Assistance Amendments Act of 1992".

**SEC. 1402. EMERGENCY SHELTER GRANTS PROGRAM.**

(a) **AUTHORIZATION OF APPROPRIATIONS.**—Section 417 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11377) is amended to read as follows:

**"SEC. 417. AUTHORIZATION OF APPROPRIATIONS.**

"There are authorized to be appropriated to carry out this subtitle \$138,000,000 for fiscal year 1993 and \$143,796,000 for fiscal year 1994."

(b) **EMPLOYMENT OF HOMELESS INDIVIDUALS.**—Section 415(c) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11375(c)) is amended—

(1) at the end of paragraph (1), by striking the period and inserting a semicolon;

(2) at the end of paragraph (3), by striking "and";

(3) in paragraph (4)—

(A) by inserting "it will" after "State,,"; and

(B) by striking "and" at the end;

(4) in paragraph (5)—

(A) by inserting "it will" before "develop"; and

(B) by striking the period at the end and inserting a semicolon;

(5) in the paragraph that follows paragraph (5) (as added by section 832(h)(3) of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101-625; 104 Stat. 4362))—

(A) by redesignating the paragraph as paragraph (6);

and

(B) by striking the period at the end and inserting  
“; and”; and

(6) by adding at the end the following new paragraph:

“(7) to the maximum extent practicable, it will involve, through employment, volunteer services, or otherwise, homeless individuals and families in constructing, renovating, maintaining, and operating facilities assisted under this subtitle, in providing services assisted under this subtitle, and in providing services for occupants of facilities assisted under this subtitle.”.

(c) PARTICIPATION OF HOMELESS INDIVIDUALS.—Section 415 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11375) is amended by adding at the end the following new subsection:

“(d) PARTICIPATION OF HOMELESS INDIVIDUALS.—The Secretary shall, by regulation, require each recipient that is not a State to provide for the participation of not less than 1 homeless individual or former homeless individual on the board of directors or other equivalent policymaking entity of such recipient, to the extent that such entity considers and makes policies and decisions regarding any facility, services, or other assistance of the recipient assisted under this subtitle. The Secretary may grant waivers to recipients unable to meet the requirement under the preceding sentence if the recipient agrees to otherwise consult with homeless or formerly homeless individuals in considering and making such policies and decisions.”.

Regulations.

(d) TERMINATION OF ASSISTANCE.—Section 415 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11375) is amended by adding after subsection (d) (as added by subsection (c) of this section) the following new subsection:

“(e) TERMINATION OF ASSISTANCE.—If an individual or family who receives assistance under this subtitle from a recipient violates program requirements, the recipient may terminate assistance in accordance with a formal process established by the recipient that recognizes the rights of individuals affected, which may include a hearing.”.

(e) ELIGIBILITY OF STAFF COSTS.—Section 414(a)(3) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11374(a)(3)) is amended—

(1) by striking “(other than staff)”; and

(2) by inserting before the period at the end the following:  
“, except that not more than 10 percent of the amount of any grant received under this subtitle may be used for costs of staff”.

#### SEC. 1403. SUPPORTIVE HOUSING PROGRAM.

(a) IN GENERAL.—Title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361 et seq.) is amended by striking subtitles C and D and inserting the following new subtitle:

42 USC 11381-11394.

### “Subtitle C—Supportive Housing Program

#### “SEC. 421. PURPOSE.

42 USC 11381.

“The purpose of the program under this subtitle is to promote the development of supportive housing and supportive services, including innovative approaches to assist homeless persons in the transition from homelessness, and to promote the provision of

supportive housing to homeless persons to enable them to live as independently as possible.

42 USC 11382.

**"SEC. 422. DEFINITIONS.**

"For purposes of this subtitle:

"(1) The term 'applicant' means a State, Indian tribe, metropolitan city, urban county, governmental entity, private nonprofit organization, or community mental health association that is a public nonprofit organization, that is eligible to receive assistance under this subtitle and submits an application under section 426(a).

"(2) The term 'disability' means—

"(A) a disability as defined in section 223 of the Social Security Act,

"(B) to be determined to have, pursuant to regulations issued by the Secretary, a physical, mental, or emotional impairment which (i) is expected to be of long-continued and indefinite duration, (ii) substantially impedes an individual's ability to live independently, and (iii) of such a nature that such ability could be improved by more suitable housing conditions,

"(C) a developmental disability as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act, or

"(D) the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agency for acquired immunodeficiency syndrome.

Subparagraph (D) shall not be construed to limit eligibility under subparagraphs (A) through (C) or the provisions referred to in subparagraphs (A) through (C).

"(3) The term 'Indian tribe' has the meaning given the term in section 102(a) of the Housing and Community Development Act of 1974.

"(4) The term 'metropolitan city' has the meaning given the term in section 102 of the Housing and Community Development Act of 1974.

"(5) The term 'operating costs' means expenses incurred by a recipient operating supportive housing under this subtitle with respect to—

"(A) the administration, maintenance, repair, and security of such housing;

"(B) utilities, fuel, furnishings, and equipment for such housing; and

"(C) the conducting of the assessment under section 426(c)(2).

"(6) The term 'outpatient health services' means outpatient health care, outpatient mental health services, outpatient substance abuse services, and case management.

"(7) The term 'private nonprofit organization' means an organization—

"(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

"(B) that has a voluntary board;

"(C) that has an accounting system, or has designated a fiscal agent in accordance with requirements established by the Secretary; and

"(D) that practices nondiscrimination in the provision of assistance.

"(8) The term 'project' means a structure or structures (or a portion of such structure or structures) that is acquired, rehabilitated, constructed, or leased with assistance provided under this subtitle or with respect to which the Secretary provides technical assistance or annual payments for operating costs under this subtitle, or supportive services.

"(9) The term 'recipient' means any governmental or non-profit entity that receives assistance under this subtitle.

"(10) The term 'Secretary' means the Secretary of Housing and Urban Development.

"(11) The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and Palau.

"(12) The term 'supportive housing' means a project that meets the requirements of section 424.

"(13) The term 'supportive services' means services under section 425.

"(14) The term 'urban county' has the meaning given the term in section 102 of the Housing and Community Development Act of 1974.

#### **"SEC. 423. ELIGIBLE ACTIVITIES.**

42 USC 11383.

"(a) IN GENERAL.—The Secretary may provide any project with one or more of the following types of assistance under this subtitle:

"(1) ACQUISITION AND REHABILITATION.—A grant, in an amount not to exceed \$200,000, for the acquisition, rehabilitation, or acquisition and rehabilitation, of an existing structure (including a small commercial property or office space) to provide supportive housing other than emergency shelter or to provide supportive services; except that the Secretary may increase the dollar limitation under this sentence to not more than \$400,000 for areas that the Secretary finds have high acquisition and rehabilitation costs. The repayment of any outstanding debt owed on a loan made to purchase an existing structure shall be considered to be a cost of acquisition eligible for a grant under this paragraph if the structure was not used as supportive housing, or to provide supportive services, before the receipt of assistance.

"(2) NEW CONSTRUCTION.—A grant, in an amount not to exceed \$400,000, for new construction of a structure to provide supportive housing.

"(3) LEASING.—A grant for leasing of an existing structure or structures, or portions thereof, to provide supportive housing or supportive services during the period covered by the application. Grant recipients may reapply for such assistance as needed to continue the use of such structure for purposes of this subtitle.

"(4) OPERATING COSTS.—Annual payments for operating costs of housing assisted under this subtitle, not to exceed 75 percent of the annual operating costs of such housing. Grant recipients may reapply for such assistance as needed to continue the use of the housing for purposes of this subtitle.

"(5) SUPPORTIVE SERVICES.—A grant for costs of supportive services provided to homeless individuals. Any recipient, includ-

ing program recipients under title IV of this Act before the date of the enactment of the Housing and Community Development Act of 1992, may reapply for such assistance or for the renewal of such assistance to continue services funded under prior grants or to provide other services.

“(6) TECHNICAL ASSISTANCE.—Technical assistance in carrying out the purposes of this subtitle.

“(b) USE RESTRICTIONS.—

“(1) ACQUISITION, REHABILITATION, AND NEW CONSTRUCTION.—Projects assisted under subsection (a) (1) or (2) shall be operated for not less than 20 years for the purpose specified in the application.

“(2) OTHER ASSISTANCE.—Projects assisted under subsection (a) (3), (4), (5), or (6) (but not under subsection (a) (1) or (2)) shall be operated for the purposes specified in the application for the duration of the period covered by the grant.

“(3) CONVERSION.—If the Secretary determines that a project is no longer needed for use as supportive housing and approves the use of the project for the direct benefit of low-income persons pursuant to a request for such use by the recipient operating the project, the Secretary may authorize the recipient to convert the project to such use.

“(c) REPAYMENT OF ASSISTANCE AND PREVENTION OF UNDUE BENEFITS.—

“(1) REPAYMENT.—The Secretary shall require recipients to repay 100 percent of any assistance received under subsection (a) (1) or (2) if the project ceases to be used as supportive housing within 10 years after the project is placed in service. If such project is used as supportive housing for more than 10 years, the Secretary shall reduce the percentage of the amount required to be repaid by 10 percentage points for each year in excess of 10 that the project is used as supportive housing.

“(2) PREVENTION OF UNDUE BENEFITS.—Except as provided in paragraph (3), upon any sale or other disposition of a project assisted under subsection (a) (1) or (2) occurring before the expiration of the 20-year period beginning on the date that the project is placed in service, the recipient shall comply with such terms and conditions as the Secretary may prescribe to prevent the recipient from unduly benefiting from such sale or disposition.

“(3) EXCEPTION.—A recipient shall not be required to comply with the terms and conditions prescribed under paragraphs (1) and (2) if the sale or disposition of the project results in the use of the project for the direct benefit of very low-income persons or if all of the proceeds are used to provide supportive housing meeting the requirements of this subtitle.

42 USC 11384.

#### “SEC. 424. SUPPORTIVE HOUSING.

“(a) IN GENERAL.—Housing providing supportive services for homeless individuals shall be considered supportive housing for purposes of this subtitle if—

“(1) the housing is safe and sanitary and meets any applicable State and local housing codes and licensing requirements in the jurisdiction in which the housing is located; and

“(2) the housing—

“(A) is transitional housing;

"(B) is permanent housing for homeless persons with disabilities; or

"(C) is, or is part of, a particularly innovative project for, or alternative methods of, meeting the immediate and long-term needs of homeless individuals and families.

"(b) TRANSITIONAL HOUSING.—For purposes of this section, the term 'transitional housing' means housing, the purpose of which is to facilitate the movement of homeless individuals and families to permanent housing within 24 months or such longer period as the Secretary determines necessary. The Secretary may deny assistance for housing based on a violation of this subsection only if the Secretary determines that a substantial number of homeless individuals or families have remained in the housing longer than such period.

"(c) PERMANENT HOUSING FOR HOMELESS PERSONS WITH DISABILITIES.—For purposes of this section, the term 'permanent housing for homeless persons with disabilities' means community-based housing for homeless persons with disabilities that provides long-term housing and supportive services for not more than—

"(1) 8 such persons in a single structure or contiguous structures;

"(2) 16 such persons, but only if not more than 20 percent of the units in a structure are designated for such persons; or

"(3) more than 16 persons if the applicant demonstrates that local market conditions dictate the development of a large project and such development will achieve the neighborhood integration objectives of the program within the context of the affected community.

"(d) SINGLE ROOM OCCUPANCY DWELLINGS.—A project may provide supportive housing or supportive services in dwelling units that do not contain bathrooms or kitchen facilities and are appropriate for use as supportive housing or in projects containing some or all such dwelling units.

**"SEC. 425. SUPPORTIVE SERVICES.**

42 USC 11385.

"(a) IN GENERAL.—To the extent practicable, each project shall provide supportive services for residents of the project and homeless persons using the project, which may be designed by the recipient or participants.

"(b) REQUIREMENTS.—Supportive services provided in connection with a project shall address the special needs of individuals (such as homeless persons with disabilities and homeless families with children) intended to be served by a project.

"(c) SERVICES.—Supportive services may include such activities as (A) establishing and operating a child care services program for homeless families, (B) establishing and operating an employment assistance program, (C) providing outpatient health services, food, and case management, (D) providing assistance in obtaining permanent housing, employment counseling, and nutritional counseling, (E) providing security arrangements necessary for the protection of residents of supportive housing and for homeless persons using the housing or project, (F) providing assistance in obtaining other Federal, State, and local assistance available for such residents (including mental health benefits, employment counseling, and medical assistance, but not including major medical equipment), and (G) providing other appropriate services.

“(d) **PROVISION OF SERVICES.**—Services provided pursuant to this section may be provided directly by the recipient or by contract with other public or private service providers. Such services may be provided to homeless individuals who do not reside in supportive housing.

“(e) **COORDINATION WITH SECRETARY OF HEALTH AND HUMAN SERVICES.**—

“(1) **APPROVAL.**—Promptly upon receipt of any application for assistance under this subtitle that includes the provision of outpatient health services, the Secretary of Housing and Urban Development shall consult with the Secretary of Health and Human Services with respect to the proposed outpatient health services. If, within 45 days of such consultation, the Secretary of Health and Human Services determines that the proposal for delivery of the outpatient health services does not meet guidelines for determining the appropriateness of such proposed services, the Secretary of Housing and Urban Development may require resubmission of the application, and the Secretary of Housing and Urban Development may not approve such portion of the application unless and until such portion has been resubmitted in a form that the Secretary of Health and Human Services determines meets such guidelines.

“(2) **GUIDELINES.**—The Secretary of Housing and Urban Development and the Secretary of Health and Human Services shall jointly establish guidelines for determining the appropriateness of proposed outpatient health services under this section. Such guidelines shall include any provisions necessary to enable the Secretary of Housing and Urban Development to meet the time limits under this subtitle for the final selection of applications for assistance.

42 USC 11386.

**“SEC. 426. PROGRAM REQUIREMENTS.**

“(a) **APPLICATIONS.**—

“(1) **FORM AND PROCEDURE.**—Applications for assistance under this subtitle shall be submitted by applicants in the form and in accordance with the procedures established by the Secretary. The Secretary may not give preference or priority to any application on the basis that the application was submitted by any particular type of applicant entity.

“(2) **CONTENTS.**—The Secretary shall require that applications contain at a minimum—

“(A) a description of the proposed project, including the activities to be undertaken;

“(B) a description of the size and characteristics of the population that would occupy the supportive housing assisted under this subtitle;

“(C) a description of the public and private resources that are expected to be made available for the project;

“(D) in the case of projects assisted under section 423(a) (1) or (2), assurances satisfactory to the Secretary that the project will be operated for not less than 20 years for the purpose specified in the application;

“(E) in the case of projects assisted under this title that do not receive assistance under such sections, annual assurances during the period specified in the application



that the project will be operated for the purpose specified in the application for such period;

“(F) a certification from the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act for the State or unit of general local government within which the project is located that the proposed project is consistent with the approved housing strategy of such State or unit of general local government; and

“(G) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

“(3) SITE CONTROL.—The Secretary shall require that each application include reasonable assurances that the applicant will own or have control of a site for the proposed project not later than the expiration of the 12-month period beginning upon notification of an award for grant assistance, unless the application proposes providing supportive housing assisted under section 423(a)(3) or housing that will eventually be owned or controlled by the families and individuals served. An applicant may obtain ownership or control of a suitable site different from the site specified in the application. If any recipient fails to obtain ownership or control of the site within 12 months after notification of an award for grant assistance, the grant shall be recaptured and reallocated under this subtitle.

“(b) SELECTION CRITERIA.—The Secretary shall select applicants approved by the Secretary as to financial responsibility to receive assistance under this subtitle by a national competition based on criteria established by the Secretary, which shall include—

“(1) the ability of the applicant to develop and operate a project;

“(2) the innovative quality of the proposal in providing a project;

“(3) the need for the type of project proposed by the applicant in the area to be served;

“(4) the extent to which the amount of assistance to be provided under this subtitle will be supplemented with resources from other public and private sources;

“(5) the cost-effectiveness of the proposed project;

“(6) the extent to which the applicant has demonstrated coordination with other Federal, State, local, private and other entities serving homeless persons in the planning and operation of the project, to the extent practicable; and

“(7) such other factors as the Secretary determines to be appropriate to carry out this subtitle in an effective and efficient manner.

“(c) REQUIRED AGREEMENTS.—The Secretary may not provide assistance for any project under this subtitle unless the applicant agrees—

“(1) to operate the proposed project in accordance with the provisions of this subtitle;

"(2) to conduct an ongoing assessment of the supportive services required by homeless individuals served by the project and the availability of such services to such individuals;

"(3) to provide such residential supervision as the Secretary determines is necessary to facilitate the adequate provision of supportive services to the residents and users of the project;

"(4) to monitor and report to the Secretary on the progress of the project;

"(5) to develop and implement procedures to ensure (A) the confidentiality of records pertaining to any individual provided family violence prevention or treatment services through any project assisted under this subtitle, and (B) that the address or location of any family violence shelter project assisted under this subtitle will not be made public, except with written authorization of the person or persons responsible for the operation of such project;

"(6) to the maximum extent practicable, to involve homeless individuals and families, through employment, volunteer services, or otherwise, in constructing, rehabilitating, maintaining, and operating the project assisted under this subtitle and in providing supportive services for the project; and

"(7) to comply with such other terms and conditions as the Secretary may establish to carry out this subtitle in an effective and efficient manner.

"(d) OCCUPANCY CHARGE.—Each homeless individual or family residing in a project providing supportive housing may be required to pay an occupancy charge in an amount determined by the recipient providing the project, which may not exceed the amount determined under section 3(a) of the United States Housing Act of 1937. Occupancy charges paid may be reserved, in whole or in part, to assist residents in moving to permanent housing.

"(e) MATCHING FUNDING.—Each recipient shall be required to supplement the amount of assistance provided under paragraphs (1) and (2) of section 423(a) with an equal amount of funds from sources other than this subtitle.

"(f) FLOOD PROTECTION STANDARDS.—Flood protection standards applicable to housing acquired, rehabilitated, constructed, or assisted under this subtitle shall be no more restrictive than the standards applicable under Executive Order No. 11988 (May 24, 1977) to the other programs under this title.

"(g) PARTICIPATION OF HOMELESS INDIVIDUALS.—The Secretary shall, by regulation, require each recipient to provide for the participation of not less than 1 homeless individual or former homeless individual on the board of directors or other equivalent policymaking entity of the recipient, to the extent that such entity considers and makes policies and decisions regarding any project, supportive services, or assistance provided under this subtitle. The Secretary may grant waivers to applicants unable to meet the requirement under the preceding sentence if the applicant agrees to otherwise consult with homeless or formerly homeless individuals in considering and making such policies and decisions.

"(h) LIMITATION ON USE OF FUNDS.—No assistance received under this subtitle (or any State or local government funds used to supplement such assistance) may be used to replace other State or local funds previously used, or designated for use, to assist homeless persons.

Regulations.

“(i) **LIMITATION ON ADMINISTRATIVE EXPENSES.**—No recipient may use more than 5 percent of a grant received under this subtitle for administrative purposes.

“(j) **TERMINATION OF ASSISTANCE.**—If an individual or family who receives assistance under this subtitle (not including residents of an emergency shelter) from a recipient violates program requirements, the recipient may terminate assistance in accordance with a formal process established by the recipient that recognizes the rights of individuals receiving such assistance to due process of law, which may include a hearing.

“**SEC. 427. REGULATIONS.**

42 USC 11387.

“Not later than the expiration of the 90-day period beginning on the date of the enactment of the Housing and Community Development Act of 1992, the Secretary shall issue interim regulations to carry out this subtitle, which shall take effect upon issuance. The Secretary shall issue final regulations to carry out this subtitle after notice and opportunity for public comment regarding the interim regulations, pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section). The duration of the period for public comment shall not be less than 60 days, and the final regulations shall be issued not later than the expiration of the 60-day period beginning upon the conclusion of the comment period and shall take effect upon issuance.

“**SEC. 428. REPORTS TO CONGRESS.**

42 USC 11388.

“The Secretary shall submit a report to the Congress annually, summarizing the activities carried out under this subtitle and setting forth the findings, conclusions, and recommendations of the Secretary as a result of the activities. The report shall be submitted not later than 4 months after the end of each fiscal year (except that, in the case of fiscal year 1993, the report shall be submitted not later than 6 months after the end of the fiscal year).

“**SEC. 429. AUTHORIZATION OF APPROPRIATIONS.**

42 USC 11389.

“(a) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this subtitle \$204,000,000 for fiscal year 1993 and \$212,568,000 for fiscal year 1994.

“(b) **SET-ASIDES.**—Of any amounts appropriated to carry out this subtitle—

“(1) not less than 25 percent shall be allocated to projects designed primarily to serve homeless families with children;

“(2) not less than 25 percent shall be allocated to projects designed primarily to serve homeless persons with disabilities; and

“(3) not less than 10 percent shall be allocated for use only for providing supportive services under sections 423(a)(5) and 425, not provided in conjunction with supportive housing.

“(c) **REALLOCATIONS.**—If, following the receipt of applications for the final funding round under this subtitle for any fiscal year, any amount set aside for assistance pursuant to subsection (b) will not be required to fund the approvable applications submitted for such assistance, the Secretary shall reallocate such amount for other assistance pursuant to this subtitle.”

(b) **TRANSITION.**—Notwithstanding the amendment made by subsection (a), before the date of the effectiveness of the regulations issued under section 427 of the Stewart B. McKinney Homeless

42 USC 11381  
note.

Assistance Act (as amended by subsection (a) of this section) the Secretary may make grants under the provisions of subtitles C and D of the Stewart B. McKinney Homeless Assistance Act, as in effect immediately before the enactment of this Act. Any grants made before such effective date shall be subject to the provisions of such subtitles.

**SEC. 1404. SAFE HAVENS FOR HOMELESS INDIVIDUALS DEMONSTRATION PROGRAM.**

Title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361 et seq.) is amended by inserting after subtitle C (as added by section 1003(a) of this Act) the following new subtitle:

**“Subtitle D—Safe Havens for Homeless Individuals Demonstration Program**

42 USC 11391. **“SEC. 431. ESTABLISHMENT OF DEMONSTRATION.**

“(a) **IN GENERAL.**—The Secretary may make grants to applicants to demonstrate the desirability and feasibility of providing very low-cost housing, to be known as safe havens, to homeless persons who, at the time, are unwilling or unable to participate in mental health treatment programs or to receive other supportive services.

“(b) **PURPOSES.**—The demonstration program carried out under this subtitle shall demonstrate—

“(1) whether and on what basis eligible persons choose to reside in safe havens;

“(2) the extent to which, after a period of residence in a safe haven, residents are willing to participate in mental health treatment programs, substance abuse treatment, or other treatment programs and to move toward a more traditional form of permanent housing and the availability in the community of such permanent housing and treatment programs;

“(3) whether safe havens are cost-effective in comparison with other alternatives for eligible persons; and

“(4) the various ways in which safe havens may be used to provide accommodations and low-demand services and referrals for eligible persons.

42 USC 11392. **“SEC. 432. DEFINITIONS.**

“For purposes of this subtitle:

“(1) **APPLICANT.**—The term ‘applicant’ means a nonprofit corporation, public nonprofit organization, State, or unit of general local government.

“(2) **ELIGIBLE PERSON.**—The term ‘eligible person’ means an individual who—

“(A) is seriously mentally ill and resides primarily in a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings, which may include occasional residence in an emergency shelter; and

“(B) is currently unwilling or unable to participate in mental health or substance abuse treatment programs or to receive other supportive services.

Such term does not include a person whose sole impairment is substance abuse.

"(3) **FACILITY.**—The term 'facility' means a structure or a clearly identifiable portion of a structure that is assisted under this subtitle.

"(4) **LOW-DEMAND SERVICES AND REFERRALS.**—The term 'low-demand services and referrals' means the provision of health care, mental health, substance abuse, and other supportive services and referrals for services in a noncoercive manner, which may include medication management, education, counseling, job training, and assistance in obtaining entitlement benefits and in obtaining other supportive services including mental health treatment and substance abuse treatment.

"(5) **NONPROFIT ORGANIZATION.**—The term 'nonprofit organization' means an organization—

"(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

"(B) that has a voluntary board;

"(C) that has an accounting system, or has designated a fiscal agent in accordance with requirements established by the Secretary; and

"(D) that practices nondiscrimination in the provision of assistance.

"(6) **OPERATING COSTS.**—The term 'operating costs' means expenses incurred by a recipient operating a safe haven under this subtitle with respect to—

"(A) the operation of the facility, including the cost of 24-hour management, and maintenance, repair, and security;

"(B) utilities, fuel, furnishings, and equipment for such housing; and

"(C) other reasonable costs necessary to the operation of the facility, which may include appropriate outreach and drop-in services.

"(7) **RECIPIENT.**—The term 'recipient' means an applicant that receives assistance under this subtitle.

"(8) **SAFE HAVEN.**—The term 'safe haven' means a facility—

"(A) that provides 24-hour residence for eligible persons who may reside for an unspecified duration;

"(B) that provides private or semiprivate accommodations;

"(C) that may provide for the common use of kitchen facilities, dining rooms, and bathrooms;

"(D) that may provide supportive services to eligible persons who are not residents on a drop-in basis; and

"(E) in which overnight occupancy is limited to no more than 25 persons.

"(9) **SECRETARY.**—The term 'Secretary' means the Secretary of Housing and Urban Development.

"(10) **SERIOUSLY MENTALLY ILL.**—The term 'seriously mentally ill' means having a severe and persistent mental or emotional impairment that seriously limits a person's ability to live independently.

"(11) **STATE.**—The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto

Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and Palau.

"(12) UNIT OF GENERAL LOCAL GOVERNMENT.—The term 'unit of general local government' has the meaning given the term in section 102(a) of the Housing and Community Development Act of 1974.

42 USC 11393.

**"SEC. 433. PROGRAM ASSISTANCE.**

**"(a) IN GENERAL.—**

"(1) ELIGIBLE ACTIVITIES.—The Secretary may provide assistance with respect to a program under this subtitle for the following activities:

"(A) The construction of a structure for use in providing a safe haven or the acquisition, rehabilitation, or acquisition and rehabilitation of an existing structure for use in providing a safe haven.

"(B) The leasing of an existing structure for use in providing a safe haven.

"(C) To cover the operating costs of a safe haven.

"(D) To cover the costs of administering a safe haven program, not to exceed 10 percent of the amounts made available for activities under subparagraphs (A) through (C).

"(E) Outreach activities designed to inform eligible persons about and attract them to a safe haven program.

"(F) The provision of low-demand services and referrals for residents of a safe haven, except that grants under this subtitle may not be used to cover more than 50 percent of the cost of such services and referrals.

"(G) Other activities that further the purposes of this subtitle, including the modification of an existing facility to use a portion of the facility to provide with a safe haven.

"(2) PERIOD OF ASSISTANCE.—Assistance may be provided to any safe haven program for activities under subparagraphs (B) through (F) of paragraph (1) for a period of not more than 5 years, except that the Secretary may, upon application by the recipient, provide assistance for an additional period of time, not to exceed 5 years, subject to—

"(A) the determination of the Secretary that the performance of the recipient under this subtitle is satisfactory; and

"(B) the availability of appropriations for such purpose.

"(3) LIMIT ON AMOUNT.—The total amount of assistance provided to any recipient under this subsection may not exceed \$400,000 in any 5-year period.

**"(b) MATCHING FUNDING.—**

"(1) IN GENERAL.—Each recipient shall supplement a grant provided under this subtitle with an equal amount of funds from sources other than this subtitle. Each recipient shall certify to the Secretary that it has complied with this paragraph, and shall include with the certification a description of the sources and amounts of such supplemental funds.

"(2) CALCULATION OF AMOUNTS.—In calculating the amount of supplemental funds required under paragraph (1), a recipient may include any funds derived from another source, the value of any lease on a building, any salary paid to staff to carry

out the program of the recipient, and the value of the time and services contributed by volunteers, at a rate determined by the Secretary, to carry out the program of the recipient.

**"SEC. 434. PROGRAM REQUIREMENTS.**

42 USC 11394.

**"(a) APPLICATIONS.**—Applications for assistance under this subtitle shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish, and such applications shall contain at a minimum—

**"(1)** a description of the proposed facility;

**"(2)** a description of the number and characteristics of the eligible persons expected to occupy the safe haven;

**"(3)** a plan for identifying and selecting eligible persons to participate;

**"(4)** a program plan, containing a description of the method—

**"(A)** of operation of the facility, including staffing plans and facility rules;

**"(B)** by which the applicant will secure supportive services for residents of the safe haven;

**"(C)** by which the applicant will monitor the willingness of residents to engage in treatment programs and other supportive services;

**"(D)** by which access to supportive services will be secured for residents willing to use them;

**"(E)** by which access to permanent housing with appropriate services, such as the Shelter Plus Care program under subtitle F, will be sought after residents are stabilized; and

**"(F)** by which the applicant will conduct outreach activities to facilitate the entrance of eligible persons into the safe haven;

**"(5)** a plan to ensure that adequate security precautions are taken to make the facility safe for the residents;

**"(6)** an estimate of program costs;

**"(7)** a description of the resources that are expected to be made available in accordance with section 433(b);

**"(8)** assurances satisfactory to the Secretary that the facility will have 24-hour, on-site management, if practicable;

**"(9)** assurances satisfactory to the Secretary that the facility will be operated for the purpose specified in the application for each year in which assistance is provided under this subtitle;

**"(10)** a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act for the State or unit of general local government within which the facility is located that the proposed activities are consistent with the approved housing strategy for such jurisdiction;

**"(11)** a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing;

**"(12)** a plan for program evaluation based on information that is collected on a periodic basis regarding the characteristics of the residents, including their movement in and out of the

safe haven, their willingness to use low-demand services and referrals, the availability and quality of services used, and the movement of residents toward a more traditional form of permanent housing after a period of residency in the safe haven; and

“(13) such other information as the Secretary may require.

“(b) **SITE CONTROL.**—The Secretary shall require that an applicant furnish reasonable assurances that the applicant will have control of a site for the proposed facility not later than 1 year after notification of an award of assistance under this subtitle. If an applicant fails to obtain control of the site within this period, the grant shall be recaptured by the Secretary and reallocated for use under this subtitle.

“(c) **SELECTION CRITERIA.**—The Secretary shall establish selection criteria for selecting applicants to receive assistance under this subtitle pursuant to a national competition, which shall include—

“(1) the extent to which the applicant demonstrates the ability to develop and operate a safe haven;

“(2) the extent to which there is a need for a safe haven in the jurisdiction in which the facility will be located;

“(3) the extent to which the program would link eligible persons to permanent housing and supportive services after stabilization in a safe haven;

“(4) the cost-effectiveness of the proposed program;

“(5) providing for geographical diversity among applicants selected to receive assistance;

“(6) the extent to which the safe haven would meet the need of the eligible persons proposed to be served by the safe haven; and

“(7) such other factors as the Secretary determines to be appropriate for purposes of carrying out the program established under this subtitle in an effective and efficient manner.

“(d) **REQUIRED AGREEMENTS.**—The Secretary may not provide assistance under this subtitle for any safe haven program unless the applicant agrees—

“(1) to develop and operate the proposed facility as a safe haven in accordance with the provisions of this subtitle;

“(2) to ensure that the facility meets any standards of habitability established by the Secretary;

“(3) to provide low-demand services and referrals for the residents of the safe haven;

“(4) to prohibit the use of illegal drugs and alcohol in the facility;

“(5) to ensure that adequate security precautions are taken to make the facility safe for the residents;

“(6) not to establish limitations on the duration of residency;

“(7) not to require participation in low-demand services and referrals as a condition of occupancy;

“(8) to monitor and report to the Secretary on progress in carrying out the safe haven program;

“(9) to the maximum extent practicable, to involve eligible persons, through employment, volunteer services, or otherwise, in renovating, maintaining, and operating facilities assisted under this subtitle and in providing services assisted under this subtitle;



"(10) to provide for the participation of not less than 1 homeless individual or former homeless individual on the board of directors or other equivalent policymaking entity of such recipient (in accordance with regulations that the Secretary shall issue), to the extent that such entity considers and makes policies and decisions regarding any facility or services assisted under this subtitle, or to otherwise provide for the consultation and participation of such an individual in considering and making such policies and decisions; and

"(11) to comply with such other terms and conditions as the Secretary may establish for purposes of carrying out the program established under this subtitle in an effective and efficient manner.

The Secretary may waive the applicability of the requirement under paragraph (10) for an applicant that is unable to meet such requirement, if the applicant agrees to otherwise consult with homeless or formerly homeless individuals in considering and making such policies and decisions.

**"SEC. 435. OCCUPANCY CHARGE.**

42 USC 11395.

"Each eligible person who resides in a facility assisted under this subtitle shall pay an occupancy charge in an amount determined by the recipient, but not to exceed the amount determined under section 3(a) of the United States Housing Act of 1937. The occupancy charge may be phased in or reduced based on the type of living accommodations provided. The recipient may waive occupancy charges for limited periods of time for residents unwilling or unable to pay them. Occupancy charges paid may be reserved to assist residents in moving to a more traditional form of permanent housing.

**"SEC. 436. TERMINATION OF ASSISTANCE.**

42 USC 11396.

"If an eligible person who resides in a safe haven or who receives low-demand services or referrals endangers the safety, welfare, or health of other residents, or repeatedly violates a condition of occupancy contained in the rules for the safe haven (as set forth in the application submitted under this subtitle), the recipient may terminate such residency or assistance in accordance with a formal process established by the rules for the safe haven, which may include a hearing.

**"SEC. 437. EVALUATION AND REPORT.**

42 USC 11397.

"The Secretary shall conduct an evaluation of the safe haven demonstration program under this subtitle and shall submit a report to the Congress, not later than December 31, 1994, which shall set forth the findings of the Secretary as a result of the evaluation.

**"SEC. 438. REGULATIONS.**

"(a) IN GENERAL.—The Secretary shall, by notice published in the Federal Register, establish such requirements as may be necessary to carry out the amendments made by this subtitle.

Federal  
Register,  
publication.  
42 USC 11398.

"(b) CONSULTATION.—In establishing requirements to carry out the provisions of this subtitle, and in considering applications under this subtitle, the Secretary shall consult with officials of the appropriate agencies of the Department of Health and Human Services and with representative provider and public interest groups.

"(c) ELIGIBILITY FOR SSI AND MEDICAID.—

“(1) **SUPPLEMENTAL SECURITY INCOME.**—All provisions of the Supplemental Security Income program under title XVI of the Social Security Act and of State programs in supplementation thereof shall apply to participants in the safe havens demonstration program under this subtitle, except that no individual living in a safe haven shall—

“(A) be considered an inmate of a public institution (as provided in section 1611(e)(1)(A) of such Act); or

“(B) have benefits under such title XVI reduced or terminated because of the receipt of support and maintenance (as provided in section 1612(a)(2)(A) of such Act), to the extent such support and maintenance is received as a result of participation in the safe havens demonstration program.

“(2) **MEDICAID.**—A safe haven shall not be considered a hospital, nursing facility, institution for mental disease as defined under section 1905(i) of the Social Security Act, or any other inpatient facility, for purposes of the program under title XIX of such Act, and individuals shall not be denied eligibility for medicaid because of residency in such residence.

42 USC 11399.

**“SEC. 439. AUTHORIZATION OF APPROPRIATIONS.**

“There are authorized to be appropriated to carry out this subtitle \$62,000,000 for fiscal year 1993 and \$64,604,000 for fiscal year 1994.”

**SEC. 1405. SECTION 8 ASSISTANCE FOR SINGLE ROOM OCCUPANCY DWELLINGS.**

(a) **BUDGET AUTHORITY.**—Section 441(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401(a)) is amended to read as follows:

“(a) **INCREASE IN BUDGET AUTHORITY.**—The budget authority available under section 5(c) of the United States Housing Act of 1937 for assistance under section 8(e)(2) of such Act is authorized to be increased by \$105,000,000 on or after October 1, 1992, and by \$109,410,000 on or after October 1, 1993.”

(b) **ELIGIBILITY OF NONPROFIT ORGANIZATIONS.**—Section 441 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401) is amended—

(1) in subsection (b), by inserting before the period at the end the following: “, and except that the Secretary may provide amounts available under this section to private nonprofit organizations that submit applications for such assistance that are approved by the Secretary”;

(2) in subsection (f), by striking “public housing agency” each place it appears and inserting “approved applicant”; and

(3) by adding at the end the following new subsection:

“(j) **DEFINITIONS.**—For purposes of this section—

“(1) the term ‘applicant’ means a public housing agency, Indian housing authority, or private nonprofit organization that applies for assistance under this section; and

“(2) the term ‘private nonprofit organization’ means an organization—

“(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

“(B) that has a voluntary board;

“(C) that has an accounting system, or has designated a fiscal agent in accordance with requirements established by the Secretary; and

“(D) that practices nondiscrimination in the provision of assistance.”.

(c) **EMPLOYMENT OF HOMELESS INDIVIDUALS.**—Section 441(c) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401(c)) is amended—

(1) in paragraph (3), by striking “and” at the end;

(2) in paragraph (4), by striking the period at the end and inserting “; and”;

(3) by inserting after paragraph (4) the following new paragraph:

“(5) assurances satisfactory to the Secretary that the applicant, to the maximum extent practicable, will involve homeless individuals and families, through employment, volunteer services, or otherwise, in rehabilitating and operating facilities assisted under this section and in providing services for occupants of such facilities.”.

(d) **PARTICIPATION OF HOMELESS INDIVIDUALS AND TERMINATION OF ASSISTANCE.**—Section 441 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401) is amended by adding after subsection (g) the following new subsections:

“(h) **PARTICIPATION OF HOMELESS INDIVIDUALS.**—The Secretary shall, by regulation, require each approved applicant receiving assistance under this section that is not a public housing agency or Indian housing authority to provide for the participation of not less than one homeless individual or former homeless individual on the board of directors or other equivalent policymaking entity of such applicant, to the extent that such entity considers and makes policies and decisions regarding the rehabilitation of any housing with assistance under this section. The Secretary may grant waivers to approved applicants unable to meet the requirements under the preceding sentence if the applicant agrees to otherwise consult with homeless or formerly homeless individuals in considering and making such policies and decisions. Regulations.

“(i) **TERMINATION OF ASSISTANCE.**—If an individual or family who receives assistance under this section violates program requirements, the recipient of amounts made available under this section may terminate assistance in accordance with a formal process established by the recipient that recognizes the rights of individuals receiving such assistance to due process of law.”.

(e) **REPORT.**—The Secretary of Housing and Urban Development shall submit a report to the Congress, not later than the expiration of the 180-day period beginning on the date of the enactment of this Act, describing the extent to which amounts appropriated to provide assistance under section 441 of the Stewart B. McKinney Homeless Assistance Act since the enactment of such section have been obligated and expended.

#### **SEC. 1403. SHELTER PLUS CARE PROGRAM.**

(a) **AUTHORIZATION OF APPROPRIATIONS.**—Section 459 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11403h) is amended—

(1) by striking subsection (a) and inserting the following new subsection:

“(a) IN GENERAL.—For purposes of the housing programs under this subtitle, there are authorized to be appropriated \$266,550,000 for fiscal year 1993 and \$277,745,100 for fiscal year 1994. Of any amount appropriated in any fiscal year to carry out this subtitle—

“(1) not less than 10 percent shall be available only for carrying out part II of this subtitle;

“(2) not less than 10 percent shall be available only for carrying out part III of this subtitle;

“(3) not less than 10 percent shall be available only for carrying out part IV of this subtitle; and

“(4) not less than 10 percent shall be available only for carrying out part V of this subtitle.”;

(2) by striking subsections (b) and (c); and

(3) by redesignating subsection (d) as subsection (b).

(b) PARTICIPATION OF HOMELESS INDIVIDUALS.—Section 455 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11403d) is amended by adding at the end the following new subsection:

Regulations.

“(c) PARTICIPATION OF HOMELESS INDIVIDUALS.—The Secretary shall, by regulation, require each recipient to provide for the consultation and participation of not less than one homeless individual or former homeless individual on the board of directors or other equivalent policymaking entity of the recipient, to the extent that such entity considers and makes policies and decisions regarding any housing assisted under this subtitle or services for such housing. The Secretary may grant waivers to recipients unable to meet the requirement under the preceding sentence if the recipient agrees to otherwise consult with homeless or formerly homeless individuals in considering and making such policies and decisions.

(c) EMPLOYMENT OF HOMELESS INDIVIDUALS.—Section 456 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11403e) is amended—

(1) in paragraph (3), by striking “and” at the end;

(2) in paragraph (4), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following new paragraph:

“(5) to the maximum extent practicable, to involve homeless individuals and families, through employment volunteer services, or otherwise, in constructing or rehabilitating housing assisted under this subtitle and in providing services required under this subtitle.”.

(d) REDESIGNATION AND AMENDMENT OF PART II PROVISIONS.—Subtitle F of title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11403 et seq.) is amended as follows:

(1) PART II HEADING.—By amending the heading for part II to read as follows:

## **“PART II—TENANT-BASED RENTAL ASSISTANCE”**

(2) PARTS II AND IV.—By striking parts III and IV.

(3) PURPOSE.—By striking section 461 and inserting the following new section:

42 USC 11405-  
11406c.  
42 USC 11404.

**"SEC. 471. AUTHORITY.**

42 USC 11404.

"The Secretary may use amounts made available under section 463 to provide tenant-based rental housing assistance for eligible persons in accordance with this part."

(4) **HOUSING ASSISTANCE.**—By redesignating section 462 as section 472 and amending such section by striking "Where" and inserting the following: "An eligible person on behalf of whom assistance is provided under this part shall select the unit in which such person will live using rental assistance under this part; except that where".

42 USC 11404a.

(5) **AMOUNT OF ASSISTANCE.**—By redesignating section 463 as section 473 and amending such section by striking the last sentence.

42 USC 11404b.

(e) **TRANSFER, REDESIGNATION, AND AMENDMENT OF GENERAL PROVISIONS.**—Subtitle F of title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11403 et seq.) is amended as follows:

(1) **TERMINATION OF ASSISTANCE.**—By redesignating section 457 as section 461.

42 USC 11403f.

(2) **DEFINITIONS.**—By redesignating section 458 as section 462 and amending such section—

42 USC 11403g.

(A) by striking paragraph (2) and inserting the following new paragraph:

"(2) The term 'applicant' means a State, unit of general local government, Indian tribe, or public housing agency."; and

(B) in paragraph (5), by inserting before the period at the end "and includes community mental health centers established as public nonprofit organizations".

(3) **AUTHORIZATION OF APPROPRIATIONS.**—By redesignating section 459 (as amended by subsection (a) of this section) as section 463.

42 USC 11403h.

(4) **HOUSING STANDARDS AND RENT REASONABLENESS.**—By redesignating section 464 as section 457, transferring and inserting such section after section 456, and amending subsection (a)(1) of such section by striking "(or if no such agency exists in the applicable area, an entity selected by the Secretary)".

42 USC 11404c,  
11403e-1.

(5) **TENANT RENT AND ADMINISTRATIVE FEES.**—By transferring and inserting sections 465 and 466 after section 457 (as so redesignated by paragraph (4) of this subsection) and redesignating such sections as sections 458 and 459, respectively.

42 USC 11404d,  
11404e,  
11403e-2,  
11403e-3.

(6) **OCCUPANCY.**—By inserting after section 459 (as so redesignated by paragraph (5) of this subsection) the following new section:

**"SEC. 460. OCCUPANCY.**42 USC  
11403e-4.

"(a) **OCCUPANCY AGREEMENT.**—The occupancy agreement between a tenant and an owner of a dwelling unit assisted under this subtitle shall be for at least one month.

"(b) **VACANCY PAYMENTS.**—If an eligible person vacates a dwelling unit assisted under this subtitle before the expiration of the occupancy agreement, no assistance payment may be made with respect to the unit after the month that follows the month during which the unit was vacated, unless it is occupied by another eligible person."

(f) PROJECT- AND SPONSOR-BASED RENTAL ASSISTANCE AND SINGLE ROOM OCCUPANCY DWELLINGS.—Subtitle F of title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11403 et seq.), as amended by the preceding provisions of this section, is further amended by inserting at the end the following new parts:

### **“PART III—PROJECT-BASED RENTAL ASSISTANCE**

42 USC 11405.

#### **“SEC. 476. AUTHORITY.**

“The Secretary may use amounts made available under section 463 to provide project-based rental housing assistance for eligible persons in accordance with this part.

Contracts.

42 USC 11405a.

#### **“SEC. 477. HOUSING ASSISTANCE.**

“Assistance under this part shall be provided pursuant to a contract between the recipient and an owner of an existing structure. The contract shall provide that rental assistance payments shall be made to the owner and that the units in the structure shall be occupied by eligible persons for not less than the term of the contract.

42 USC 11405b.

#### **“SEC. 478. TERM OF CONTRACT AND AMOUNT OF ASSISTANCE.**

“(a) TERM OF CONTRACT.—Each contract with a recipient for assistance under this part shall be for a term of 5 years, and the owner shall have an option to renew the assistance for an additional 5-year term, subject to the availability of amounts provided in appropriation Acts; except that if an expenditure of at least \$3,000 for each unit (including its prorated share of work on common areas or systems) is required to make the structure decent, safe, and sanitary, and the owner agrees to carry out the rehabilitation with resources other than assistance under this subtitle within 12 months of notification of grant approval, the contract shall be for a term of 10 years.

“(b) AMOUNT OF ASSISTANCE.—Each contract shall provide that the recipient shall receive aggregate amounts not to exceed the appropriate existing housing fair market rental under section 8(c)(1) of the United States Housing Act of 1937 in effect at the time the application is approved. Any amounts not needed for a year may be used to increase the amount available in subsequent years.

### **“PART IV—SPONSOR-BASED RENTAL ASSISTANCE**

42 USC 11406.

#### **“SEC. 481. AUTHORITY.**

“The Secretary may use amounts made available under section 463 to provide sponsor-based rental assistance for eligible persons in accordance with this part.

Contracts.

42 USC 11406a.

#### **“SEC. 482. HOUSING ASSISTANCE.**

“Assistance under this part shall be provided pursuant to a contract between the recipient and a private nonprofit sponsor that owns or leases dwelling units. The contract shall provide that rental assistance payments shall be made to the sponsor and that such assisted units shall be occupied by eligible persons.

**"SEC. 483. TERM OF CONTRACT AND AMOUNT OF ASSISTANCE.**

42 USC 11406b.

"(a) **TERM OF CONTRACT.**—The contract with a recipient of assistance under this part shall be for a term of 5 years.

"(b) **AMOUNT OF ASSISTANCE.**—Each contract shall provide that the recipient shall receive aggregate amounts not to exceed the appropriate existing housing fair market rental under section 8(c)(1) of the United States Housing Act of 1937 in effect at the time the application is approved. Any amounts not needed for a year may be used to increase the amount available in subsequent years.

**"PART V—SECTION 8 MODERATE REHABILITATION ASSISTANCE FOR SINGLE-ROOM OCCUPANCY DWELLINGS****"SEC. 486. AUTHORITY.**

42 USC 11407.

"The Secretary may use amounts made available under section 463 in connection with the moderate rehabilitation of single room occupancy housing described in section 8(n) of the United States Housing Act of 1937 for occupancy by eligible persons in accordance with this part. Amounts available under section 463 may be used in connection with the moderate rehabilitation of efficiency units if the building owner agrees to pay the additional cost of rehabilitating and operating the efficiency units.

**"SEC. 487. FIRE AND SAFETY IMPROVEMENTS.**

42 USC 11407a.

"Each contract for housing assistance payments entered into under this part shall require the installation of a sprinkler system that protects all major spaces, hard-wired smoke detectors, and any other fire safety improvements as may be required by State or local law. For purposes of this section, the term 'major spaces' means hallways, large common areas, and other areas specified in local fire, building, or safety codes.

**"SEC. 488. CONTRACT REQUIREMENTS.**

42 USC 11407b.

"Each contract for annual contributions entered into by the Secretary with a public housing agency to obligate the authority made available under section 463 for use under this part shall—

"(1) commit the Secretary to make the authority available to the public housing agency for an aggregate period of 10 years, and require that any amendments increasing the authority shall be available for the remainder of such 10-year period;

"(2) provide the Secretary with the option to renew the contract for an additional period of 10 years, subject to the availability of authority; and

"(3) provide that, notwithstanding any other provision of law, first priority for occupancy of housing rehabilitated under this part shall be given to homeless persons."

(g) **TECHNICAL AND CONFORMING AMENDMENTS.**—Subtitle F of title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11403 et seq.), as amended by the preceding provisions of this section, is further amended—

(1) by striking the heading for part I and inserting the following new heading:

42 USC prec.  
11403.

**"PART I—GENERAL REQUIREMENTS";**

42 USC 11403a.

(2) in section 452(a), by striking "and IV" and inserting "IV, and V"; and

42 USC 11403c.

(3) in section 454(b)—

(A) in paragraph (1), by striking "or IV" and inserting "IV, or V";

(B) in paragraph (8), by striking "or IV" and inserting "IV, or V";

(C) in paragraph (10)(A), by inserting ", or III" after "part II"; and

(D) in paragraph (11)—

(i) by striking "part III" and inserting "part V"; and

(ii) by striking "rehabilitation and".

**SEC. 1407. FHA SINGLE FAMILY PROPERTY DISPOSITION.**

(a) **30-DAY MARKETING PERIOD.**—Except as provided in subsection (b), in carrying out the program for disposition of single family properties acquired by the Department of Housing and Urban Development for use by the homeless under subpart E of part 291 of title 24, Code of Federal Regulations, the Secretary of Housing and Urban Development may not make any eligible property available for lease under such program that has not been listed and made generally available for sale by the Secretary for a period of at least 30 days.

(b) **EXCEPTION.**—With respect to any area for which the Secretary determines that there will not be a sufficient quantity of decent, safe, and sanitary affordable housing available for use under the program referred to in subsection (a) if eligible properties located in the area are made generally available for the 30-day period under subsection (a), the Secretary shall reserve for disposition under such program not more than 10 percent of the total number of eligible properties located in the area and shall not market such properties as provided under subsection (a). The Secretary shall consult with the unit of general local government for an area in determining which properties should be reserved for disposition under this subsection.

Inter-  
governmental  
relations.

**(c) STATE AND LOCAL TAXES.—**

(1) **REQUIREMENT TO PROVIDE INFORMATION UPON REQUEST.**—In carrying out the program referred to in subsection (a), the Secretary of Housing and Urban Development shall provide the information described in paragraph (2) to any lessee or applicant under the program who requests such information.

(2) **CONTENT.**—The information referred in paragraph (1) shall identify and describe any exemptions or reductions relating to payment of property taxes under State and local laws (for the jurisdictions for which the lessee or applicant requests such information) that may be applicable to lessees or applicants, or to properties leased, under such program.

(3) **EXEMPTION FROM ESCROW REQUIREMENT.**—To the extent any lessee of a property under the program referred to in subsection (a) is provided an exemption from any requirement to pay State or local taxes, or a reduction in the amount of any such taxes, the Secretary may not require the lessee to pay or deposit in any escrow account amounts for the payment of such taxes.



**SEC. 1408. RURAL HOMELESSNESS GRANT PROGRAM.**

Title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361 et seq.) is amended by adding at the end the following new subtitle:

## **“Subtitle G—Rural Homeless Housing Assistance**

**“SEC. 491. RURAL HOMELESSNESS GRANT PROGRAM.**

42 USC 11408.

“(a) **ESTABLISHMENT.**—The Secretary of Housing and Urban Development shall establish and carry out a rural homelessness grant program. In carrying out the program, the Secretary may award grants to eligible organizations in order to pay for the Federal share of the cost of—

“(1) assisting programs providing direct emergency assistance to homeless individuals and families;

“(2) providing homelessness prevention assistance to individuals and families at risk of becoming homeless; and

“(3) assisting individuals and families in obtaining access to permanent housing and supportive services.

“(b) **USE OF FUNDS.**—

“(1) **IN GENERAL.**—An eligible organization may use a grant awarded under subsection (a) to provide, in rural areas—

“(A) rent, mortgage, or utility assistance after 2 months of nonpayment in order to prevent eviction, foreclosure, or loss of utility service;

“(B) security deposits, rent for the first month of residence at a new location, and relocation assistance;

“(C) short-term emergency lodging in motels or shelters, either directly or through vouchers;

“(D) transitional housing;

“(E) rehabilitation and repairs such as insulation, window repair, door repair, roof repair, and repairs that are necessary to make premises habitable;

“(F) development of comprehensive and coordinated support services that use and supplement, as needed, community networks of services, including—

“(i) outreach services to reach eligible recipients;

“(ii) case management;

“(iii) housing counseling;

“(iv) budgeting;

“(v) job training and placement;

“(vi) primary health care;

“(vii) mental health services;

“(viii) substance abuse treatment;

“(ix) child care;

“(x) transportation;

“(xi) emergency food and clothing;

“(xii) family violence services;

“(xiii) education services;

“(xiv) moving services;

“(xv) entitlement assistance; and

“(xvi) referrals to veterans services and legal services; and

"(G) costs associated with making use of Federal inventory property programs to house homeless families, including the program established under title V of the Stewart B. McKinney Homeless Assistance Act and the Single Family Property Disposition Program established pursuant to section 204(g) of the National Housing Act.

"(2) CAPACITY BUILDING ACTIVITIES.—Not more than 20 percent of the funds appropriated under subsection (1)(1) for a fiscal year may be used by eligible organizations for capacity building activities, including payment of operating costs and staff retention.

"(c) AWARD OF GRANTS.—

"(1) COMMUNITIES WITH POPULATIONS OF LESS THAN 10,000.—

"(A) SET ASIDE.—In awarding grants under subsection (a) for a fiscal year, the Secretary shall make available not less than 50 percent of the funds appropriated under subsection (1)(1) for the fiscal year for grants to eligible organizations serving communities that have populations of less than 10,000.

"(B) PRIORITY WITHIN SET ASIDE.—In awarding grants in accordance with subparagraph (A), the Secretary shall give priority to eligible organizations serving communities with populations of less than 5,000.

"(2) COMMUNITIES WITHOUT SIGNIFICANT FEDERAL ASSISTANCE.—In awarding grants under subsection (a), including grants awarded in accordance with paragraph (1), the Secretary shall give priority to eligible organizations serving communities not currently receiving significant Federal assistance under this Act.

"(3) STATE LIMIT.—In awarding grants under subsection (a) for a fiscal year, the Secretary shall not award to eligible organizations within a State an aggregate sum of more than 10 percent of the funds appropriated under subsection (1)(1), for the fiscal year.

"(d) APPLICATION.—In order to be eligible to receive a grant under subsection (a), an organization shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. The application shall include, at a minimum—

"(1) a description of the target population and geographic area to be served;

"(2) a description of the types of assistance to be provided;

"(3) an assurance that the assistance to be provided is closely related to the identified needs of the target population;

"(4) a description of the existing assistance available to the target population, including Federal, State, and local programs, and a description of the manner in which the organization will coordinate with and expand existing assistance or provide assistance not available in the immediate area;

"(5) an agreement by the organization that the organization will collect data on the projects conducted by the organization, including assistance provided, number and characteristics of persons served, and causes of homelessness for persons served; and

"(6) an agreement by the organization that, to the maximum extent practicable, the organization will involve homeless

individuals and families through employment, volunteer services, and otherwise, in providing, operating, and rehabilitating housing assisted under this section and in providing services assisted under this section and services for occupants of housing assisted under this section.

"(e) **ELIGIBLE ORGANIZATIONS.**—Organizations eligible to receive a grant under subsection (a) shall include private nonprofit entities, Indian tribes (as such term is defined in section 102(a) of the Housing and Community Development Act of 1974), and county and local governments.

"(f) **FEDERAL SHARE.**—

"(1) **IN GENERAL.**—The Federal share of the costs of providing assistance under this section shall be 75 percent.

"(2) **NON-FEDERAL SHARE.**—The non-Federal share of the cost of providing the assistance shall be in cash or in kind, fairly evaluated, including plant, equipment, staff services, or services delivered by volunteers.

"(g) **PARTICIPATION OF HOMELESS INDIVIDUALS.**—The Secretary shall, by regulation, require each eligible organization receiving a grant under this section to provide for the participation of not less than 1 homeless individual or former homeless individual on the board of directors or other equivalent policy making entity of the recipient, to the extent that such entity considers and makes policies and decisions regarding any housing, services, or other assistance of the eligible organization receiving the grant under this section. The Secretary may grant waivers to recipients unable to meet the requirement under the preceding sentence if the recipient agrees to otherwise consult with homeless or formerly homeless individuals in considering and making such policies and decisions.

Regulations.

"(h) **EVALUATION.**—

"(1) **IN GENERAL.**—The Secretary shall conduct an evaluation of the program to—

"(A) determine the effectiveness of the program in providing housing and other assistance to homeless persons in the area served; and

"(B) determine the types of assistance needed to address homelessness in rural areas.

"(2) **REPORT.**—The Secretary shall submit to Congress, not later than 18 months after the date on which the Secretary first makes grants under the program, the evaluation of the program conducted under paragraph (1), including recommendations for any Federal administrative or legislative changes that may be necessary to improve the ability of rural communities to prevent and respond to homelessness.

"(i) **TECHNICAL ASSISTANCE.**—The Secretary shall provide technical assistance to eligible organizations in developing programs in accordance with this section, and in gaining access to other Federal resources that may be used to assist homeless persons in rural areas. Such assistance may be provided through regional workshops, and may be provided directly or through grants to, or contracts with, nongovernmental entities.

"(j) **TERMINATION OF ASSISTANCE.**—If an individual or family who receives assistance under this section violates requirements of the assistance program provided by the organization receiving a grant under this section, the organization may terminate assistance in accordance with a formal process established by the

organization that recognizes the rights of individuals receiving such assistance to due process of law, which may include a hearing.

**"(k) DEFINITIONS.—**

**"For purposes of this section:**

**"(1) PROGRAM.—**The term 'program' means the rural homelessness grant program established under this section.

**"(2) RURAL AREA; RURAL COMMUNITY.—**The terms 'rural area' and 'rural community' mean—

**"(A)** any area or community, respectively, no part of which is within an area designated as a standard metropolitan statistical area by the Office of Management and Budget; or

**"(B)** any area or community, respectively, that is—

**"(i)** within an area designated as a metropolitan statistical area or considered as part of a metropolitan statistical area; and

**"(ii)** located in a rural census tract.

**"(3) SECRETARY.—**The term 'Secretary' means the Secretary of Housing and Urban Development.

**"(l) AUTHORIZATION OF APPROPRIATIONS.—**

**"(1) IN GENERAL.—**There are authorized to be appropriated to carry out this section \$30,000,000 for fiscal year 1993 and \$31,260,000 for fiscal year 1994.

**"(2) AVAILABILITY.—**Any amount paid to a grant recipient for a fiscal year that remains unobligated at the end of the year shall remain available to the recipient for the purposes for which the payment was made for the next fiscal year. The Secretary shall take such action as may be necessary to recover any amount not obligated by the recipient at the end of the second fiscal year, and shall redistribute the amount to another eligible organization."

42 USC 11361  
note.

**SEC. 1409. EVALUATION OF PROGRAMS.**

**(a) IN GENERAL.—**The Secretary of Housing and Urban Development shall conduct a comprehensive review and evaluation of the effectiveness of each program under title IV of the Stewart B. McKinney Homeless Assistance Act. In conducting the review, the Secretary shall examine procedures of the Department in carrying out such programs, the procedures of recipients of assistance under such programs in carrying out such programs, and the effects and benefits of such programs; shall survey homeless individuals and families assisted under each program in various jurisdictions receiving assistance under each program; shall determine whether such programs are fulfilling the purposes for which they were established; and shall evaluate the usefulness and effectiveness of such programs.

**(b) REPORT.—**Not later than the expiration of the 2-year period beginning on the date of the enactment of this Act, the Secretary shall submit a report to the Congress describing the results of the review and evaluation conducted under subsection (a).

42 USC 11361  
note.

**SEC. 1410. EXTENSION OF ORIGINAL MCKINNEY ACT HOUSING PROGRAMS.**

42 USC 11361  
*et seq.*

The Cranston-Gonzalez National Affordable Housing Act is amended by striking sections 821 and 823 (42 U.S.C. 11361 note). The amendment made by such section 821 of such Act shall not take effect.

**SEC. 1411. CONSULTATION AND REPORT REGARDING USE OF NATIONAL GUARD FACILITIES AS OVERNIGHT SHELTERS FOR HOMELESS INDIVIDUALS.**

42 USC 11411  
note.

(a) **USE OF AVAILABLE SPACE AT NATIONAL GUARD FACILITIES.**—The Secretary of Housing and Urban Development shall consult with the chief executive officers of the States and the Secretary of Defense to determine the availability of space at National Guard facilities for use by homeless organizations in providing overnight shelter for homeless persons and families. The Secretary of Housing and Urban Development shall determine the availability of only such space that can be used for shelter purposes during periods it is not actively being used for National Guard purposes. The Secretary of Housing and Urban Development shall also determine the availability of incidental services at such facilities, including utilities, bedding, security, transportation, renovation of facilities, minor repairs undertaken specifically to make available space in a facility suitable for use as an overnight shelter for homeless individuals, and property liability insurance.

(b) **LIMITATIONS.**—In consultations under this section, the Secretary of Housing and Urban Development shall determine—

(1) the number and capacity of such facilities that may be made available for shelters for homeless persons and families without adversely affecting the military or emergency service preparedness of the State or the United States; and

(2) whether any available space is suitable for use as an overnight shelter for homeless individuals or can, with minor repairs, be made suitable for that use.

(c) **REPORT.**—The Secretary of Housing and Urban Development shall submit to the Congress, not later than the expiration of the 1-year period beginning on the date of the enactment of this Act, a report regarding the consultations and determinations made by the Secretary under this section. The report shall include any recommendations of the Secretary regarding the need for, and feasibility of, using National Guard facilities for homeless shelters and any recommendations of the Secretary for administrative or legislative action to provide for such use.

**SEC. 1412. STRATEGY TO ELIMINATE UNFIT TRANSIENT FACILITIES.**

Section 825(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 11301 note) is amended in the first sentence—

(1) by striking “Cranston-Gonzalez National Affordable Housing Act” and inserting “Housing and Community Development Act of 1992”; and

(2) by striking “July 1, 1992” and inserting “July 1, 1994”.

**SEC. 1413. AMENDMENTS TO TABLE OF CONTENTS.**

The table of contents in section 101(b) of the Stewart B. McKinney Homeless Assistance Act is amended—

(1) by striking the item relating to section 401 and inserting the following new item:

“Sec. 401. Housing affordability strategy.”;

(2) by striking the item relating to the heading for subtitle C of title IV and all that follows through the item relating to section 484 and inserting the following new items:

**"Subtitle C—Supportive Housing Program**

- "Sec. 421. Purpose.
- "Sec. 422. Definitions.
- "Sec. 423. Eligible activities.
- "Sec. 424. Supportive housing.
- "Sec. 425. Supportive services.
- "Sec. 426. Program requirements.
- "Sec. 427. Regulations.
- "Sec. 428. Reports to Congress.
- "Sec. 429. Authorization of appropriations.

**"Subtitle D—Safe Havens for Homeless Individuals Demonstration Program**

- "Sec. 431. Establishment of demonstration.
- "Sec. 432. Definitions.
- "Sec. 433. Program assistance.
- "Sec. 434. Program requirements.
- "Sec. 435. Occupancy charge.
- "Sec. 436. Termination of assistance.
- "Sec. 437. Evaluation and report.
- "Sec. 438. Regulations.
- "Sec. 439. Authorization of appropriations.

**"Subtitle E—Miscellaneous Programs**

- "Sec. 441. Section 8 assistance for single room occupancy dwellings.
- "Sec. 442. Community development block grant amendment.
- "Sec. 443. Administrative provisions.

**"Subtitle F—Shelter Plus Care Program****"PART I—GENERAL REQUIREMENTS**

- "Sec. 451. Purpose.
- "Sec. 452. Rental housing assistance.
- "Sec. 453. Supportive services requirements.
- "Sec. 454. Applications.
- "Sec. 455. Selection criteria.
- "Sec. 456. Required agreements.
- "Sec. 457. Housing standards and rent reasonableness.
- "Sec. 458. Tenant rent.
- "Sec. 459. Administrative fees.
- "Sec. 460. Occupancy.
- "Sec. 461. Termination of assistance.
- "Sec. 462. Definitions.
- "Sec. 463. Authorization of appropriations.

**"PART II—TENANT-BASED RENTAL ASSISTANCE**

- "Sec. 471. Authority.
- "Sec. 472. Housing assistance.
- "Sec. 473. Amount of assistance.

**"PART III—PROJECT-BASED RENTAL ASSISTANCE**

- "Sec. 476. Authority.
- "Sec. 477. Housing assistance.
- "Sec. 478. Term of contract and amount of assistance.

**"PART IV—SPONSOR-BASED RENTAL ASSISTANCE**

- "Sec. 481. Authority.
- "Sec. 482. Housing assistance.
- "Sec. 483. Term of contract and amount of assistance.

**"PART V—SECTION 8 MODERATE REHABILITATION ASSISTANCE FOR SINGLE-ROOM OCCUPANCY DWELLINGS**

- "Sec. 486. Authority.
- "Sec. 487. Fire and safety improvements.
- "Sec. 488. Contract requirements.

**"Subtitle G—Rural Homeless Housing Assistance**

- "Sec. 491. Rural homelessness grant program.
- "Sec. 492. Use of FMHA inventory for transitional housing for homeless persons and for turnkey housing.”;

(3) by striking the item relating to section 501 and inserting the following new item:

"Sec. 501. Use of unutilized and underutilized public buildings and real property to assist the homeless."

(4) by striking the items relating to sections 722 through 725 and inserting the following new items:

"Sec. 722. Grants for State and local activities for the education of homeless children and youth.

"Sec. 723. Local educational agency grants for the education of homeless children and youth.

"Sec. 724. National responsibilities.

"Sec. 725. Reports.

"Sec. 726. Definitions.";

(5) by inserting after the item relating to section 754 the following new items:

"Sec. 755. Evaluation.

"Sec. 756. Report by the Secretary.";

and

(6) by inserting after the item relating to section 762 the following new items:

"Subtitle F—Family Support Centers

"Sec. 771. Definitions.

"Sec. 772. General grants for the provision of services.

"Sec. 773. Training and retention.

"Sec. 774. Family case managers.

"Sec. 775. Gateway programs.

"Sec. 776. Evaluation.

"Sec. 777. Report.

"Sec. 778. Construction.

"Sec. 779. Authorization of appropriations."

**SEC. 1414. USE OF FMHA INVENTORY FOR TRANSITIONAL HOUSING FOR HOMELESS PERSONS AND FOR TURNKEY HOUSING.**

42 USC 11408a.

Subtitle G of the Title IV of the Stewart B. McKinney Homeless Assistance Act (as added by section 1408 of this Act) is amended by adding at the end the following new section:

**"SEC. 592. USE OF FMHA INVENTORY FOR TRANSITIONAL HOUSING FOR HOMELESS PERSONS AND FOR TURNKEY HOUSING.**

"(a) IN GENERAL.—The Secretary of Agriculture (in this section referred to as the 'Secretary') shall, on a priority basis, lease or sell program and nonprogram inventory properties held by the Secretary under title V of the Housing Act of 1949—

"(1) to provide transitional housing; and

"(2) to provide turnkey housing for tenants of such transitional housing and for eligible families.

"(b) PRIORITY.—The priority uses of inventory property under this section shall not have a higher priority than—

"(1) the disposition of such property by sale to eligible families; or

"(2) the disposition of such property by transfer for use as rental housing by eligible families.

"(c) TRANSITIONAL HOUSING.—

"(1) LEASES AUTHORIZED.—The Secretary shall lease inventory properties to public agencies and nonprofit organizations to provide transitional housing for homeless families and individuals and to provide such agencies the option to provide turnkey housing opportunities for homeless persons and other inadequately housed families.

"(2) RENTAL TO ELIGIBLE FAMILIES.—A public agency or nonprofit organization may rent housing leased to it under paragraph (1) to a family for up to 10 years and may, during that period, assist the tenant in obtaining a loan and credit assistance under title V of the Housing Act of 1949 to purchase the housing from the Secretary.

"(d) LEASE PROCEDURES.—

"(1) IDENTIFICATION OF PROPERTY.—Upon receipt by the Secretary of written notification from a public agency or nonprofit organization that it proposes to lease a property for the purpose of providing transitional housing or for the purpose of providing transitional housing and turnkey housing opportunities, the Secretary shall—

"(A) withdraw the property from the market for not more than 30 days for the purpose of negotiations under subparagraph (B);

"(B) negotiate a lease agreement with the organization or agency; and

"(C) if a lease is agreed to, commence the repairs necessary to make the property meet standards for decent, safe, and sanitary housing.

"(2) LEASE TERMS.—A lease of inventory property under this section shall—

"(A) be for a period of not more than 10 years;

"(B) provide for the payment of \$1 for the 10-year lease; and

"(C) provide the nonprofit organization or public agency—

"(i) the right to use the property for transitional housing; and

"(ii) the option to arrange for the sale of the property to an eligible purchaser.

"(e) PURCHASE PROCEDURES.—

"(1) IDENTIFICATION OF PROPERTY.—Upon receipt by the Secretary of written notification from a public agency or nonprofit organization that it proposes to purchase a property for the purpose of providing transitional housing or for the purpose of providing transitional housing and turnkey housing opportunities, the Secretary shall—

"(A) withdraw the property from the market for not more than 30 days for the purpose of negotiations under subparagraph (B);

"(B) negotiate a purchase agreement with the organization or agency; and

"(C) if a purchase agreement is agreed to, commence the repairs necessary to make the property meet standards for decent, safe, and sanitary housing.

"(2) PURCHASE TERMS.—A purchase of inventory property under this section shall provide for a purchase price equal to not more than the fair market value of the property minus 10 percent.

"(f) EMPLOYMENT OF HOMELESS INDIVIDUALS.—A public agency or nonprofit organization may lease or purchase property under this section only if the agency or organization, to the maximum extent practicable, involves homeless individuals and families, through employment, volunteer services, or otherwise, in maintaining, operating, and renovating any properties leased or acquired



under this section and in providing any services for occupants of properties assisted under this section.

**"(g) PARTICIPATION OF HOMELESS INDIVIDUALS.—**

**"(1) IN GENERAL.—**The Secretary shall, by regulation, require each public agency and nonprofit organization leasing or purchasing property under this section to provide for the participation of not less than 1 homeless individual or former homeless individual on the board of directors or other equivalent policy making entity of such agency or organization, to the extent that such organization or applicant considers and makes policies and decisions regarding any property acquired under this section. Regulations.

**"(2) WAIVER.—**The Secretary may grant a waiver to a public agency or nonprofit organization that is unable to meet the requirement of paragraph (1), if the agency or organization agrees to otherwise consult with homeless or formerly homeless individuals in considering and making such policies and decisions.

**"(h) BUDGET COMPLIANCE.—**The authority provided to the Secretary under this section shall be effective only to the extent approved in advance in appropriations Acts."

## **Subtitle B—Interagency Council on the Homeless**

### **SEC. 1421. AUTHORIZATION OF APPROPRIATIONS.**

Section 208 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11318) is amended to read as follows:

#### **"SEC. 208. AUTHORIZATION OF APPROPRIATIONS.**

"There are authorized to be appropriated to carry out this title \$1,500,000 for fiscal year 1993 and \$1,563,000 for fiscal year 1994."

### **SEC. 1422. EXTENSION.**

Section 209 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11319) is amended by striking "October 1, 1992" and inserting "October 1, 1994".

## **Subtitle C—Federal Emergency Management Food and Shelter Program**

### **SEC. 1431. AUTHORIZATION OF APPROPRIATIONS.**

Section 322 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11352) is amended to read as follows:

#### **"SEC. 322. AUTHORIZATION OF APPROPRIATIONS.**

"There are authorized to be appropriated to carry out this title \$180,000,000 for fiscal year 1993 and \$187,560,000 for fiscal year 1994."

### **SEC. 1432. EMPLOYMENT AND PARTICIPATION OF HOMELESS INDIVIDUALS IN LOCAL PROGRAMS.**

Section 316(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11346(a)) is amended—

(1) in paragraph (3), by striking “and” at the end;  
 (2) in paragraph (4), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

“(5) guidelines requiring each private nonprofit organization and local government carrying out a local emergency food and shelter program with amounts provided under this subtitle, to the maximum extent practicable, to involve homeless individuals and families, through employment, volunteer services, or otherwise, in providing emergency food and shelter and in otherwise carrying out the local program; and

“(6) guidelines requiring each private nonprofit organization and local government carrying out a local emergency food and shelter program with amounts provided under this subtitle to provide for the participation of not less than 1 homeless individual or former homeless individual on the board of directors or other equivalent policy making entity of the organization or governmental agency to the extent that such entity considers and makes policies and decisions regarding the local program of the organization or locality; except that such guidelines may grant waivers to applicants unable to meet such requirement if the organization or government agrees to otherwise consult with homeless or formerly homeless individuals in considering and making such policies and decisions.”.

Annunzio-  
Wylie  
Anti-Money  
Laundering  
Act.

12 USC 1811  
note.

## **TITLE XV—ANNUNZIO-WYLIE ANTI-MONEY LAUNDERING ACT**

### **SEC. 1500. SHORT TITLE.**

This title may be cited as the “Annunzio-Wylie Anti-Money Laundering Act”.

### **Subtitle A—Termination of Charters, Insurance, and Offices**

#### **SEC. 1501. AUTHORITY TO APPOINT CONSERVATOR FOR DEPOSITORY INSTITUTIONS CONVICTED OF MONEY LAUNDERING.**

(a) **INSURED DEPOSITORY INSTITUTIONS.**—Section 11(c)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)(5)) is amended by adding at the end the following new subparagraph:

“(M) **MONEY LAUNDERING OFFENSE.**—The Attorney General notifies the appropriate Federal banking agency or the Corporation in writing that the insured depository institution has been found guilty of a criminal offense under section 1956 or 1957 of title 18, United States Code, or section 5322 of title 31, United States Code.”.

(b) **INSURED CREDIT UNIONS.**—Section 206(h)(1) of the Federal Credit Union Act (12 U.S.C. 1786(h)(1)) is amended—

(1) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively; and

(2) by inserting after subparagraph (B) the following new subparagraph:

“(C) the Attorney General notifies the Board in writing that an insured credit union has been found guilty of

a criminal offense under section 1956 or 1957 of title 18, United States Code, or section 5322 of title 31, United States Code.”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on December 20, 1992.

12 USC 1786  
note.

**SEC. 1502. REVOKING CHARTER OF FEDERAL DEPOSITORY INSTITUTIONS CONVICTED OF MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.**

(a) **NATIONAL BANKS.**—Section 5239 of the Revised Statutes (12 U.S.C. 93) is amended by adding at the end the following:

“(c) **FORFEITURE OF FRANCHISE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.**—

“(1) **IN GENERAL.**—

“(A) **CONVICTION OF TITLE 18 OFFENSES.**—

“(i) **DUTY TO NOTIFY.**—If a national bank, a Federal branch, or Federal agency has been convicted of any criminal offense under section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Comptroller of the Currency a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

“(ii) **NOTICE OF TERMINATION; PRETERMINATION HEARING.**—After receiving written notification from the Attorney General of such a conviction, the Comptroller of the Currency shall issue to the national bank, Federal branch, or Federal agency a notice of the Comptroller’s intention to terminate all rights, privileges, and franchises of the bank, Federal branch, or Federal agency and schedule a pretermination hearing.

“(B) **CONVICTION OF TITLE 31 OFFENSES.**—If a national bank, a Federal branch, or a Federal agency is convicted of any criminal offense under section 5322 of title 31, United States Code, after receiving written notification from the Attorney General, the Comptroller of the Currency may issue to the national bank, Federal branch, or Federal agency a notice of the Comptroller’s intention to terminate all rights, privileges, and franchises of the bank, Federal branch, or Federal agency and schedule a pretermination hearing.

“(C) **JUDICIAL REVIEW.**—Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this subsection.

“(2) **FACTORS TO BE CONSIDERED.**—In determining whether a franchise shall be forfeited under paragraph (1), the Comptroller of the Currency shall take into account the following factors:

“(A) The extent to which directors or senior executive officers of the national bank, Federal branch, or Federal agency knew of, or were involved in, the commission of the money laundering offense of which the bank, Federal branch, or Federal agency was found guilty.

“(B) The extent to which the offense occurred despite the existence of policies and procedures within the national bank, Federal branch, or Federal agency which were designed to prevent the occurrence of any such offense.

“(C) The extent to which the national bank, Federal branch, or Federal agency has fully cooperated with law enforcement authorities with respect to the investigation of the money laundering offense of which the bank, Federal branch, or Federal agency was found guilty.

“(D) The extent to which the national bank, Federal branch, or Federal agency has implemented additional internal controls (since the commission of the offense of which the bank, Federal branch, or Federal agency was found guilty) to prevent the occurrence of any other money laundering offense.

“(E) The extent to which the interest of the local community in having adequate deposit and credit services available would be threatened by the forfeiture of the franchise.

“(3) SUCCESSOR LIABILITY.—This subsection shall not apply to a successor to the interests of, or a person who acquires, a bank, a Federal branch, or a Federal agency that violated a provision of law described in paragraph (1), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this subsection or regulations prescribed under this subsection.

“(4) DEFINITION.—The term ‘senior executive officer’ has the same meaning as in regulations prescribed under section 32(f) of the Federal Deposit Insurance Act.”.

(b) FEDERAL SAVINGS ASSOCIATIONS.—Section 5 of the Home Owners’ Loan Act (12 U.S.C. 1464) is amended by adding at the end the following:

“(w) FORFEITURE OF FRANCHISE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—

“(1) IN GENERAL.—

“(A) CONVICTION OF TITLE 18 OFFENSE.—

“(I) DUTY TO NOTIFY.—If a Federal savings association has been convicted of any criminal offense under section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Director a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

“(II) NOTICE OF TERMINATION; PRETERMINATION HEARING.—After receiving written notification from the Attorney General of such a conviction, the Director shall issue to the savings association a notice of the Director’s intention to terminate all rights, privileges, and franchises of the savings association and schedule a pretermination hearing.

“(B) CONVICTION OF TITLE 31 OFFENSES.—If a Federal savings association is convicted of any criminal offense under section 5322 of title 31, United States Code, after receiving written notification from the Attorney General, the Director may issue to the savings association a notice of the Director’s intention to terminate all rights, privileges, and franchises of the savings association and schedule a pretermination hearing.

“(C) JUDICIAL REVIEW.—Subsection (d)(1)(B)(vii) shall apply to any proceeding under this subsection.

"(2) **FACTORS TO BE CONSIDERED.**—In determining whether a franchise shall be forfeited under paragraph (1), the Director shall take into account the following factors:

"(A) The extent to which directors or senior executive officers of the savings association knew of, were involved in, the commission of the money laundering offense of which the association was found guilty.

"(B) The extent to which the offense occurred despite the existence of policies and procedures within the savings association which were designed to prevent the occurrence of any such offense.

"(C) The extent to which the savings association has fully cooperated with law enforcement authorities with respect to the investigation of the money laundering offense of which the association was found guilty.

"(D) The extent to which the savings association has implemented additional internal controls (since the commission of the offense of which the savings association was found guilty) to prevent the occurrence of any other money laundering offense.

"(E) The extent to which the interest of the local community in having adequate deposit and credit services available would be threatened by the forfeiture of the franchise.

"(3) **SUCCESSOR LIABILITY.**—This subsection shall not apply to a successor to the interests of, or a person who acquires, a savings association that violated a provision of law described in paragraph (1), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this subsection or regulations prescribed under this subsection.

"(4) **DEFINITION.**—The term 'senior executive officer' has the same meaning as in regulations prescribed under section 32(f) of the Federal Deposit Insurance Act."

(c) **FEDERAL CREDIT UNIONS.**—Title I of the Federal Credit Union Act (12 U.S.C. 1752 et seq.) is amended by adding at the end the following new section:

**"SEC. 131. FORFEITURE OF ORGANIZATION CERTIFICATE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.**

12 USC 1772d.

**"(a) FORFEITURE OF FRANCHISE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—**

**"(1) CONVICTION OF TITLE 18 OFFENSES.—**

**"(A) DUTY TO NOTIFY.**—If a credit union has been convicted of any criminal offense under section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Board a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

**"(B) NOTICE OF TERMINATION; PRETERMINATION HEARING.**—After receiving written notification from the Attorney General of such a conviction, the Board shall issue to such credit union a notice of its intention to terminate all rights, privileges, and franchises of the credit union and schedule a pretermination hearing.

"(2) CONVICTION OF TITLE 31 OFFENSES.—If a credit union is convicted of any criminal offense under section 5322 of title 31, United States Code, after receiving written notification from the Attorney General, the Board may issue to such credit union a notice of its intention to terminate all rights, privileges, and franchises of the credit union and schedule a pretermination hearing.

"(3) JUDICIAL REVIEW.—Section 206(j) shall apply to any proceeding under this section.

"(b) FACTORS TO BE CONSIDERED.—In determining whether a franchise shall be forfeited under subsection (a), the Board shall take into account the following factors:

"(1) The extent to which directors, committee members, or senior executive officers (as defined by the Board in regulations which the Board shall prescribe) of the credit union knew of, or were involved in, the commission of the money laundering offense of which the credit union was found guilty.

"(2) The extent to which the offense occurred despite the existence of policies and procedures within the credit union which were designed to prevent the occurrence of any such offense.

"(3) The extent to which the credit union has fully cooperated with law enforcement authorities with respect to the investigation of the money laundering offense of which the credit union was found guilty.

"(4) The extent to which the credit union has implemented additional internal controls (since the commission of the offense of which the credit union was found guilty) to prevent the occurrence of any other money laundering offense.

"(5) The extent to which the interest of the local community in having adequate deposit and credit services available would be threatened by the forfeiture of the franchise.

"(c) SUCCESSOR LIABILITY.—This section shall not apply to a successor to the interests of, or a person who acquires, a credit union that violated a provision of law described in subsection (a), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this section or regulations prescribed under this section."

**SEC. 1503. TERMINATING INSURANCE OF STATE DEPOSITORY INSTITUTIONS CONVICTED OF MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.**

(a) STATE BANKS AND SAVINGS ASSOCIATIONS.—

(1) IN GENERAL.—Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended by adding at the end the following new subsection:

"(w) TERMINATION OF INSURANCE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—

"(1) IN GENERAL.—

"(A) CONVICTION OF TITLE 18 OFFENSES.—

"(i) DUTY TO NOTIFY.—If an insured State depository institution has been convicted of any criminal offense under section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Corporation a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

**"(ii) NOTICE OF TERMINATION; PRETERMINATION HEARING.**—After receipt of written notification from the Attorney General by the Corporation of such a conviction, the Board of Directors shall issue to the insured depository institution a notice of its intention to terminate the insured status of the insured depository institution and schedule a hearing on the matter, which shall be conducted in all respects as a termination hearing pursuant to paragraphs (3) through (5) of subsection (a).

**"(B) CONVICTION OF TITLE 31 OFFENSES.**—If an insured State depository institution is convicted of any criminal offense under section 5322 of title 31, United States Code, after receipt of written notification from the Attorney General by the Corporation, the Board of Directors may initiate proceedings to terminate the insured status of the insured depository institution in the manner described in subparagraph (A).

**"(C) NOTICE TO STATE SUPERVISOR.**—The Corporation shall simultaneously transmit a copy of any notice issued under this paragraph to the appropriate State financial institutions supervisor.

**"(2) FACTORS TO BE CONSIDERED.**—In determining whether to terminate insurance under paragraph (1), the Board of Directors shall take into account the following factors:

**"(A)** The extent to which directors or senior executive officers of the depository institution knew of, or were involved in, the commission of the money laundering offense of which the institution was found guilty.

**"(B)** The extent to which the offense occurred despite the existence of policies and procedures within the depository institution which were designed to prevent the occurrence of any such offense.

**"(C)** The extent to which the depository institution has fully cooperated with law enforcement authorities with respect to the investigation of the money laundering offense of which the institution was found guilty.

**"(D)** The extent to which the depository institution has implemented additional internal controls (since the commission of the offense of which the depository institution was found guilty) to prevent the occurrence of any other money laundering offense.

**"(E)** The extent to which the interest of the local community in having adequate deposit and credit services available would be threatened by the termination of insurance.

**"(3) NOTICE TO STATE BANKING SUPERVISOR AND PUBLIC.**—When the order to terminate insured status initiated pursuant to this subsection is final, the Board of Directors shall—

**"(A)** notify the State banking supervisor of any State depository institution described in paragraph (1) and the Office of Thrift Supervision, where appropriate, at least 10 days prior to the effective date of the order of termination of the insured status of such depository institution, including a State branch of a foreign bank; and

**"(B)** publish notice of the termination of the insured status of the depository institution in the Federal Register.

Federal  
Register,  
publication.

**"(4) TEMPORARY INSURANCE OF PREVIOUSLY INSURED DEPOSITS.**—Upon termination of the insured status of any State depository institution pursuant to paragraph (1), the deposits of such depository institution shall be treated in accordance with subsection (a)(7).

**"(5) SUCCESSOR LIABILITY.**—This subsection shall not apply to a successor to the interests of, or a person who acquires, an insured depository institution that violated a provision of law described in paragraph (1), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this subsection or regulations prescribed under this subsection.

**"(6) DEFINITION.**—The term 'senior executive officer' has the same meaning as in regulations prescribed under section 32(f) of this Act."

**(2) TECHNICAL AMENDMENT.**—Section 8(a)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1818(a)(3)) is amended by inserting "of this subsection or subsection (w)" after "subparagraph (B)".

**(b) STATE CREDIT UNIONS.**—Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended by adding at the end the following new subsection:

**"(v) TERMINATION OF INSURANCE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.**—

**"(1) IN GENERAL.**—

**"(A) CONVICTION OF TITLE 18 OFFENSES.**—

**"(i) DUTY TO NOTIFY.**—If an insured State credit union has been convicted of any criminal offense under section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Board a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

**"(ii) NOTICE OF TERMINATION.**—After written notification from the Attorney General to the Board of such a conviction, the Board shall issue to such insured credit union a notice of its intention to terminate the insured status of the insured credit union and schedule a hearing on the matter, which shall be conducted as a termination hearing pursuant to subsection (b) of this section, except that no period for correction shall apply to a notice issued under this subparagraph.

**"(B) CONVICTION OF TITLE 31 OFFENSES.**—If a credit union is convicted of any criminal offense under section 5322 of title 31, United States Code, after prior written notification from the Attorney General, the Board may initiate proceedings to terminate the insured status of such credit union in the manner described in subparagraph (A).

**"(C) NOTICE TO STATE SUPERVISOR.**—The Board shall simultaneously transmit a copy of any notice under this paragraph to the appropriate State financial institutions supervisor.

**"(2) FACTORS TO BE CONSIDERED.**—In determining whether to terminate insurance under paragraph (1), the Board shall take into account the following factors:



"(A) The extent to which directors, committee members, or senior executive officers (as defined by the Board in regulations which the Board shall prescribe) of the credit union knew of, or were involved in, the commission of the money laundering offense of which the credit union was found guilty.

"(B) The extent to which the offense occurred despite the existence of policies and procedures within the credit union which were designed to prevent the occurrence of any such offense.

"(C) The extent to which the credit union has fully cooperated with law enforcement authorities with respect to the investigation of the money laundering offense of which the credit union was found guilty.

"(D) The extent to which the credit union has implemented additional internal controls (since the commission of the offense of which the credit union was found guilty) to prevent the occurrence of any other money laundering offense.

"(E) The extent to which the interest of the local community in having adequate deposit and credit services available would be threatened by the termination of insurance.

"(3) NOTICE TO STATE CREDIT UNION SUPERVISOR AND PUBLIC.—When the order to terminate insured status initiated pursuant to this subsection is final, the Board shall—

"(A) notify the commission, board, or authority (if any) having supervision of the credit union described in paragraph (1) at least 10 days prior to the effective date of the order of the termination of the insured status of such credit union; and

"(B) publish notice of the termination of the insured status of the credit union.

"(4) TEMPORARY INSURANCE OF PREVIOUSLY INSURED DEPOSITS.—Upon termination of the insured status of any State credit union pursuant to paragraph (1), the deposits of such credit union shall be treated in accordance with section 206(d)(2).

"(5) SUCCESSOR LIABILITY.—This subsection shall not apply to a successor to the interests of, or a person who acquires, an insured credit union that violated a provision of law described in paragraph (1), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this subsection or regulations prescribed under this subsection."

#### SEC. 1504. REMOVING PARTIES INVOLVED IN CURRENCY REPORTING VIOLATIONS.

(a) FDIC-INSURED INSTITUTIONS.—

(1) VIOLATION OF REPORTING REQUIREMENTS.—Section 8(e)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1818(e)(2)) is amended to read as follows:

"(2) SPECIFIC VIOLATIONS.—

"(A) IN GENERAL.—Whenever the appropriate Federal banking agency determines that—

"(i) an institution-affiliated party has committed a violation of any provision of subchapter II of chapter

53 of title 31, United States Code, and such violation was not inadvertent or unintentional;

"(ii) an officer or director of an insured depository institution has knowledge that an institution-affiliated party of the insured depository institution has violated any such provision or any provision of law referred to in subsection (g)(1)(A)(ii); or

"(iii) an officer or director of an insured depository institution has committed any violation of the Depository Institution Management Interlocks Act,

the agency may serve upon such party, officer, or director a written notice of the agency's intention to remove such party from office.

"(B) FACTORS TO BE CONSIDERED.—In determining whether an officer or director should be removed as a result of the application of subparagraph (A)(ii), the agency shall consider whether the officer or director took appropriate action to stop, or to prevent the recurrence of, a violation described in such subparagraph."

(2) CERTAIN FELONY CHARGES.—Section 8(g)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1818(g)(1)) is amended to read as follows:

"(1) SUSPENSION OR PROHIBITION.—

"(A) IN GENERAL.—Whenever any institution-affiliated party is charged in any information, indictment, or complaint, with the commission of or participation in—

"(i) a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding one year under State or Federal law, or

"(ii) a criminal violation of section 1956, 1957, or 1960 of title 18, United States Code, or section 5322 of title 31, United States Code,

the appropriate Federal banking agency may, if continued service or participation by such party may pose a threat to the interests of the depository institution's depositors or may threaten to impair public confidence in the depository institution, by written notice served upon such party, suspend such party from office or prohibit such party from further participation in any manner in the conduct of the affairs of the depository institution.

"(B) PROVISIONS APPLICABLE TO NOTICE.—

"(i) COPY.—A copy of any notice under subparagraph (A) shall also be served upon the depository institution.

"(ii) EFFECTIVE PERIOD.—A suspension or prohibition under subparagraph (A) shall remain in effect until the information, indictment, or complaint referred to in such subparagraph is finally disposed of or until terminated by the agency.

"(C) REMOVAL OR PROHIBITION.—

"(i) IN GENERAL.—If a judgment of conviction or an agreement to enter a pretrial diversion or other similar program is entered against an institution-affiliated party in connection with a crime described in subparagraph (A)(i), at such time as such judgment is not subject to further appellate review, the appropriate Federal banking agency may, if continued serv-

ice or participation by such party may pose a threat to the interests of the depository institution's depositors or may threaten to impair public confidence in the depository institution, issue and serve upon such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the depository institution without the prior written consent of the appropriate agency.

"(ii) REQUIRED FOR CERTAIN OFFENSES.—In the case of a judgment of conviction or agreement against an institution-affiliated party in connection with a violation described in subparagraph (A)(ii), the appropriate Federal banking agency shall issue and serve upon such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the depository institution without the prior written consent of the appropriate agency.

"(D) PROVISIONS APPLICABLE TO ORDER.—

"(i) COPY.—A copy of any order under subparagraph (C) shall also be served upon the depository institution, whereupon the institution-affiliated party who is subject to the order (if a director or an officer) shall cease to be a director or officer of such depository institution.

"(ii) EFFECT OF ACQUITTAL.—A finding of not guilty or other disposition of the charge shall not preclude the agency from instituting proceedings after such finding or disposition to remove such party from office or to prohibit further participation in depository institution affairs, pursuant to paragraph (1), (2), or (3) of subsection (e) of this section.

"(iii) EFFECTIVE PERIOD.—Any notice of suspension or order of removal issued under this paragraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under paragraph (3) unless terminated by the agency."

(b) CREDIT UNIONS.—

(1) VIOLATION OF REPORTING REQUIREMENTS.—Section 206(g)(2) of the Federal Credit Union Act (12 U.S.C. 1786(g)(2)) is amended to read as follows:

"(2) SPECIFIC VIOLATIONS.—

"(A) IN GENERAL.—Whenever the Board determines that—

"(i) an institution-affiliated party has committed a violation of any provision of subchapter II of chapter 53 of title 31, United States Code, unless such violation was inadvertent or unintentional;

"(ii) an officer or director of an insured credit union has knowledge that an institution-affiliated party of the insured credit union has violated any such provision or any provision of law referred to in subsection (i)(1)(A)(ii); or

"(iii) an officer or director of an insured credit union has committed any violation of the Depository Institution Management Interlocks Act,

the Board may serve upon such party, officer, or director a written notice of the Board's intention to remove such officer or director from office.

"(B) FACTORS TO BE CONSIDERED.—In determining whether an officer or director should be removed as a result of the application of subparagraph (A)(ii), the Board shall consider whether the officer or director took appropriate action to stop, or to prevent the recurrence of, a violation described in such subparagraph."

(2) CERTAIN FELONY CHARGES.—Section 206(i)(1) of the Federal Credit Union Act (12 U.S.C. 1786(i)(1)) is amended to read as follows:

"(1) SUSPENSION OR PROHIBITION AUTHORIZED.—

"(A) IN GENERAL.—Whenever any institution-affiliated party is charged in any information, indictment, or complaint, with the commission of or participation in—

"(i) a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding one year under State or Federal law, or

"(ii) a criminal violation of section 1956, 1957, or 1960 of title 18, United States Code, or section 5322 of title 31, United States Code,

the Board may, if continued service or participation by such party may pose a threat to the interests of the credit union's members or may threaten to impair public confidence in the credit union, by written notice served upon such party, suspend such party from office or prohibit such party from further participation in any manner in the conduct of the affairs of the credit union.

"(B) PROVISIONS APPLICABLE TO NOTICE.—

"(i) COPY.—A copy of any notice under subparagraph (A) shall also be served upon the credit union.

"(ii) EFFECTIVE PERIOD.—A suspension or prohibition under subparagraph (A) shall remain in effect until the information, indictment, or complaint referred to in such subparagraph is finally disposed of or until terminated by the Board.

"(C) REMOVAL OR PROHIBITION.—

"(i) IN GENERAL.—If a judgment of conviction or an agreement to enter a pretrial diversion or other similar program is entered against an institution-affiliated party in connection with a crime described in subparagraph (A)(i), at such time as such judgment is not subject to further appellate review, the Board may, if continued service or participation by such party may pose a threat to the interests of the credit union's members or may threaten to impair public confidence in the credit union, issue and serve upon such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the credit union without the prior written consent of the Board.

"(ii) REQUIRED FOR CERTAIN OFFENSES.—In the case of a judgment of conviction or agreement against an institution-affiliated party in connection with a violation described in subparagraph (A)(ii), the Board shall issue and serve upon such party an order removing

such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the credit union without the prior written consent of the Board.

**“(D) PROVISIONS APPLICABLE TO ORDER.—**

**“(i) COPY.—**A copy of any order under subparagraph (C) shall also be served upon such credit union, whereupon such party (if a director or an officer) shall cease to be a director or officer of such credit union.

**“(ii) EFFECT OF ACQUITTAL.—**A finding of not guilty or other disposition of the charge shall not preclude the Board from instituting proceedings after such finding or disposition to remove such party from office or to prohibit further participation in credit union affairs, pursuant to paragraph (1), (2), or (3) of subsection (g) of this section.

**“(iii) EFFECTIVE PERIOD.—**Any notice of suspension or order of removal issued under this paragraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under paragraph (3) unless terminated by the Board.”.

**(c) ATTORNEY GENERAL NOTICE REQUIREMENT.—**Section 1956 of title 18, United States Code, is amended by adding at the end the following new subsection:

**“(g) NOTICE OF CONVICTION OF FINANCIAL INSTITUTIONS.—**If any financial institution or any officer, director, or employee of any financial institution has been found guilty of an offense under this section, section 1957 or 1960 of this title, or section 5322 of title 31, the Attorney General shall provide written notice of such fact to the appropriate regulatory agency for the financial institution.”.

**(d) TECHNICAL CORRECTIONS TO PROVISIONS RELATING TO MONEY LAUNDERING ENFORCEMENT ACTIVITIES.—**

**(1)** Section 5318(a)(1) of title 31, United States Code, is amended—

**(A)** by striking “or the Postal Inspection Service”; and

**(B)** by inserting “United States” before “Postal Service”.

**(2)** Section 5322(a) of title 31, United States Code, is amended by striking “imprisonment” and inserting “imprisoned for”.

**SEC. 1505. UNAUTHORIZED PARTICIPATION.**

Section 19(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1829(a)(1)) is amended by inserting “or money laundering” after “breach of trust”.

**SEC. 1506. ACCESS BY STATE FINANCIAL INSTITUTION SUPERVISORS TO CURRENCY TRANSACTIONS REPORTS.**

Section 5319 of title 31, United States Code, is amended—

**(1)** in the first sentence, by striking “to an agency” and inserting “to an agency, including any State financial institutions supervisory agency,”; and

**(2)** by inserting after the second sentence the following new sentence: “The Secretary may only require reports on the use of such information by any State financial institutions supervisory agency for other than supervisory purposes.”.

**SEC. 1507. RESTRICTING STATE BRANCHES AND AGENCIES OF FOREIGN BANKS CONVICTED OF MONEY LAUNDERING OFFENSES.**

Section 7 of the International Banking Act of 1978 (12 U.S.C. 3105) is amended by inserting after subsection (h) the following new subsection:

**“(i) PROCEEDINGS RELATED TO CONVICTION FOR MONEY LAUNDERING OFFENSES.—**

**“(1) NOTICE OF INTENTION TO ISSUE ORDER.—**If the Board finds or receives written notice from the Attorney General that—

**“(A) any foreign bank which operates a State agency, a State branch which is not an insured branch, or a State commercial lending company subsidiary;**

**“(B) any State agency;**

**“(C) any State branch which is not an insured branch;**

**or**

**“(D) any State commercial lending subsidiary,** has been found guilty of any money laundering offense, the Board shall issue a notice to the agency, branch, or subsidiary of the Board's intention to commence a termination proceeding under subsection (e).

**“(2) DEFINITIONS.—**For purposes of this subsection—

**“(A) INSURED BRANCH.—**The term ‘insured branch’ has the meaning given such term in section 3(s) of the Federal Deposit Insurance Act.

**“(B) MONEY LAUNDERING OFFENSE DEFINED.—**The term ‘money laundering offense’ means any criminal offense under section 1956 or 1957 of title 18, United States Code, or under section 5322 of title 31, United States Code.”.

## **Subtitle B—Nonbank Financial Institutions and General Provisions**

**SEC. 1511. IDENTIFICATION OF FINANCIAL INSTITUTIONS.**

(a) **IN GENERAL.—**Subchapter II of chapter 53 of title 31, United States Code, is amended by inserting after section 5326 the following new section:

**“§ 5327. Identification of financial institutions**

**“(a) REGULATIONS REQUIRED.—**The Secretary of the Treasury shall prescribe regulations requiring each depository institution to identify any customer (of the depository institution) which—

**“(1) is a financial institution described in—**

**“(A) any subparagraph of section 5312(a)(2) other than subparagraphs (A) through (G); or**

**“(B) any regulation under any such subparagraph; and**

**“(2) has any account with the depository institution.**

**“(b) REPORTS REQUIRED.—**Each depository institution shall report the names of and other information about financial institution customers required to be identified under subsection (a) to the Secretary at such times and in such manner as the Secretary shall prescribe by regulation.

**“(c) REPORTING OFFENSES.—**No person shall cause or attempt to cause any depository institution to fail to file a report required

by this section or to file a report containing a material omission or misstatement of fact.

“(d) **AVAILABILITY OF REPORTS.**—The Secretary shall provide reports filed under subsection (b) to appropriate State financial institution supervisory agencies for supervisory purposes.

“(e) **DEPOSITORY INSTITUTION DEFINED.**—For purposes of this section, the term ‘depository institution’ means any financial institution described in subparagraph (A), (B), (C), (D), (E), or (F) of section 5312(a)(2).”

(b) **TECHNICAL AND CONFORMING AMENDMENT.**—Section 5321(a) of title 31, United States Code, is amended by adding at the end the following new paragraph:

“(7) **FINANCIAL INSTITUTION IDENTIFICATION VIOLATIONS.**—

“(A) **PENALTY AUTHORIZED.**—The Secretary may impose a civil money penalty on any person who willfully violates any provision of section 5327 or any regulation prescribed under such section.

“(B) **MAXIMUM AMOUNT LIMITATION.**—The amount of any civil money penalty imposed under subparagraph (A) shall not exceed \$10,000 per day for each day during which a report remains unfiled or a report containing a material omission or misstatement of fact remains uncorrected.”

“(c) **CLERICAL AMENDMENT.**—The table of sections for chapter 53 of title 31, United States Code, is amended by inserting after the item relating to section 5326 the following new item:

“5327. Identification of financial institutions.”

(d) **EFFECTIVE DATE OF REGULATIONS.**—The initial final regulations prescribed pursuant to section 5327 of title 31, United States Code (as added by subsection (a) of this section) shall take effect before January 1, 1994.

31 USC 5327  
note.

## **SEC. 1512. PROHIBITION OF ILLEGAL MONEY TRANSMITTING BUSINESSES.**

(a) **IN GENERAL.**—Chapter 95 of title 18, United States Code, is amended by adding at the end the following section:

### **“§ 1960. Prohibition of illegal money transmitting businesses**

“(a) Whoever conducts, controls, manages, supervises, directs, or owns all or part of a business, knowing the business is an illegal money transmitting business, shall be fined in accordance with this title or imprisoned not more than 5 years, or both.

“(b) As used in this section—

“(1) the term ‘illegal money transmitting business’ means a money transmitting business that affects interstate or foreign commerce in any manner or degree and which is knowingly operated in a State—

“(A) without the appropriate money transmitting State license; and

“(B) where such operation is punishable as a misdemeanor or a felony under State law;

“(2) the term ‘money transmitting’ includes but is not limited to transferring funds on behalf of the public by any and all means including but not limited to transfers within this country or to locations abroad by wire, check, draft, facsimile, or courier; and

“(3) the term ‘State’ means any State of the United States, the District of Columbia, the Northern Mariana Islands, and any commonwealth, territory, or possession of the United States.”

(b) **CLERICAL AMENDMENT.**—The table of sections for chapter 95 of title 18, United States Code, is amended by adding at the end the following item:

“1960. Prohibition of illegal money transmitting businesses.”

(c) **CRIMINAL FORFEITURE.**—Section 982(a)(1) of title 18, United States Code, is amended by striking “or 1957” and inserting “, 1957, or 1960”.

**SEC. 1513. COMPLIANCE PROCEDURES.**

Section 5318(a)(2) of title 31, United States Code, is amended by inserting “or to guard against money laundering” before the semicolon.

**SEC. 1514. NONDISCLOSURE OF ORDERS.**

Section 5326 of title 31, United States Code, is amended by adding at the end the following:

“(c) **NONDISCLOSURE OF ORDERS.**—No financial institution or officer, director, employee or agent of a financial institution subject to an order under this section may disclose the existence of, or terms of, the order to any person except as prescribed by the Secretary.”

**SEC. 1515. PROVISIONS RELATING TO RECORDKEEPING WITH RESPECT TO CERTAIN FUNDS TRANSFERS.**

(a) **RECORDKEEPING REGULATIONS REQUIRED.**—Section 21(b) of the Federal Deposit Insurance Act (12 U.S.C. 1829b(b)) is amended—

(1) by striking “(b) Where” and inserting “(b) RECORDKEEPING REGULATIONS.—

“(1) **IN GENERAL.**—Where”; and

(2) by adding at the end the following new paragraphs:

“(2) **DOMESTIC FUNDS TRANSFERS.**—Whenever the Secretary and the Board of Governors of the Federal Reserve System (hereafter in this section referred to as the ‘Board’) determine that the maintenance of records, by insured depository institutions, of payment orders which direct transfers of funds over wholesale funds transfer systems has a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings, the Secretary and the Board shall jointly prescribe regulations to carry out the purposes of this section with respect to the maintenance of such records.

“(3) **INTERNATIONAL FUNDS TRANSFERS.**—

“(A) **IN GENERAL.**—The Secretary and the Board shall jointly prescribe, after consultation with State banking supervisors, final regulations requiring that insured depository institutions, businesses that provide check cashing services, money transmitting businesses, and businesses that issue or redeem money orders, travelers’ checks or other similar instruments maintain such records of payment orders which—

“(i) involve international transactions; and

“(ii) direct transfers of funds over wholesale funds transfer systems or on the books of any insured depository institution, or on the books of any business that



provides check cashing services, any money transmitting business, and any business that issues or redeems money orders, travelers' checks or similar instruments, that will have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings.

**"(B) FACTORS FOR CONSIDERATION.**—In prescribing the regulations required under subparagraph (A), the Secretary and the Board shall consider—

“(i) the usefulness in criminal, tax, or regulatory investigations or proceedings of any record required to be maintained pursuant to the proposed regulations; and

“(ii) the effect the recordkeeping required pursuant to such proposed regulations will have on the cost and efficiency of the payment system.

**"(C) Availability of records.**—Any records required to be maintained pursuant to the regulations prescribed under subparagraph (A) shall be submitted or made available to the Secretary or the Board upon request.”.

**(b) TECHNICAL AND CONFORMING AMENDMENTS.**—Section 21 of the Federal Deposit Insurance Act (12 U.S.C. 1829b) is amended—

(1) in subsection (c), by striking “Each insured” and inserting “Subject to the requirements of any regulations prescribed jointly by the Secretary and the Board under paragraph (2) or (3) of subsection (b), each insured”;

(2) in subsection (e), by striking “Whenever any” and inserting “Subject to the requirements of any regulations prescribed jointly by the Secretary and the Board under paragraph (2) or (3) of subsection (b), whenever any”; and

(3) in subsection (f), by striking “In addition to” and inserting “Subject to the requirements of any regulations prescribed jointly by the Secretary and the Board under paragraph (2) or (3) of subsection (b) and in addition to”.

**(c) EFFECTIVE DATE OF REGULATIONS.**—The initial final regulations prescribed pursuant to section 21(b)(3) of the Federal Deposit Insurance Act (as added by subsection (a)(2) of this section) shall take effect before January 1, 1994.

12 USC 1829b  
note.

#### **SEC. 1516. USE OF CERTAIN RECORDS.**

Section 1112(f) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3412(f)) is amended—

(1) in paragraph (1), by inserting “or the Secretary of the Treasury” after “the Attorney General”; and

(2) in paragraph (2), by inserting “and only for criminal investigative purposes relating to money laundering and other financial crimes by the Department of the Treasury” after “the Department of Justice”.

#### **SEC. 1517. SUSPICIOUS TRANSACTIONS AND FINANCIAL INSTITUTION ANTI-MONEY LAUNDERING PROGRAMS.**

**(a) REPORTING REQUIREMENT.**—Section 5324 of title 31, United States Code, is amended by inserting “or section 5325 or regulations prescribed under such section 5325” after “section 5313(a)” each place such term appears.

**(b) SUSPICIOUS TRANSACTIONS AND ENFORCEMENT PROGRAMS.**—Section 5314 of title 31, United States Code, is amended by adding at the end the following new subsections:

**“(g) REPORTING OF SUSPICIOUS TRANSACTIONS.**—

“(1) **IN GENERAL.**—The Secretary may require any financial institution, and any director, officer, employee, or agent of any financial institution, to report any suspicious transaction relevant to a possible violation of law or regulation.

“(2) **NOTIFICATION PROHIBITED.**—A financial institution, and a director, officer, employee, or agent of any financial institution, who voluntarily reports a suspicious transaction, or that reports a suspicious transaction pursuant to this section or any other authority, may not notify any person involved in the transaction that the transaction has been reported.

“(3) **LIABILITY FOR DISCLOSURES.**—Any financial institution that makes a disclosure of any possible violation of law or regulation or a disclosure pursuant to this subsection or any other authority, and any director, officer, employee, or agent of such institution, shall not be liable to any person under any law or regulation of the United States or any constitution, law, or regulation of any State or political subdivision thereof, for such disclosure or for any failure to notify the person involved in the transaction or any other person of such disclosure.

“(h) **ANTI-MONEY LAUNDERING PROGRAMS.**—

“(1) **IN GENERAL.**—In order to guard against money laundering through financial institutions, the Secretary may require financial institutions to carry out anti-money laundering programs, including at a minimum

“(A) the development of internal policies, procedures, and controls,

“(B) the designation of a compliance officer,

“(C) an ongoing employee training program, and

“(D) an independent audit function to test programs.

“(2) **REGULATIONS.**—The Secretary may prescribe minimum standards for programs established under paragraph (1).”

31 USC 5311  
note.

#### **SEC. 1518. ANTI-MONEY LAUNDERING TRAINING TEAM.**

The Secretary of the Treasury and the Attorney General shall jointly establish a team of experts to assist and provide training to foreign governments and agencies thereof in developing and expanding their capabilities for investigating and prosecuting violations of money laundering and related laws.

#### **SEC. 1519. INTERNATIONAL MONEY LAUNDERING REPORTS.**

(a) **UNITED STATES OBJECTIVES.**—Section 481(a)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(a)(1)) is amended—

(1) by striking out “and” at the end of subparagraph (D);

(2) by redesignating subparagraph (E) as subparagraph

(F); and

(3) by inserting after subparagraph (D) the following new subparagraph:

“(E) the objective of the United States in dealing with the problem of international money laundering should be to ensure that countries adopt comprehensive domestic measures against money laundering and cooperative with each other in narcotics money laundering investigations, prosecutions, and related forfeiture actions; and”

(b) **ANNUAL REPORTS.**—Section 481(e) of that Act (22 U.S.C. 2291(e)) is amended—

(1) by redesignating paragraphs (7) and (8) as paragraphs (8) and (9), respectively; and

(2) by inserting after paragraph (6) the following new paragraph (7):

"(7)(A) Each report pursuant to this subsection shall include a report on major money laundering countries. This report shall specify—

"(i) which countries are major money laundering countries;

"(ii) which countries identified pursuant to clause (i) have financial institutions engaging in currency transactions involving international narcotics trafficking proceeds that include significant amounts of United States currency or currency derived from illegal drug sales in the United States or that otherwise significantly affect the United States;

"(iii) which countries identified pursuant to clause (ii) have not reached agreement with the United States authorities on a mechanism for exchanging adequate records in connection with narcotics investigations and proceedings;

"(iv) which countries identified pursuant to clause (iii)—

"(I) are negotiating in good faith with the United States to establish such a record-exchange mechanism, or

"(II) have adopted laws or regulations that ensure the availability to appropriate United States Government personnel and those of other governments of adequate records in connection with narcotics investigations and proceedings; and

"(v) which countries identified pursuant to clause (i)—

"(I) have ratified the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances and are taking steps to implement that Convention and other applicable agreements and conventions such as the recommendations of the Financial Action Task Force, the policy directive of the European Community, the legislative guidelines of the Organization of American States, and other similar declarations, and

"(II) have entered into bilateral agreements for the exchange of information on money-laundering with countries other than the United States,

"(B) In addition, for each major money laundering country, the report shall include findings on the country's adoption of law and regulations considered essential to prevent narcotics-related money laundering. Such findings shall include whether a country has—

"(i) criminalized narcotics money laundering;

"(ii) required banks and other financial institutions to know and record the identity of customers engaging in significant transactions, including the recording of large currency transactions at thresholds appropriate to that country's economic situation;

"(iii) required banks and other financial institutions to maintain, for an adequate time, records necessary to reconstruct significant transactions through financial institutions in order to be able to respond quickly to information requests from appropriate government authorities in narcotics-related money laundering cases;

"(iv) required or allowed financial institutions to report suspicious transactions;

"(v) established systems for identifying, tracing, freezing, seizing, and forfeiting narcotics-related assets;

“(vi) enacted laws for the sharing of seized narcotics assets with other governments;

“(vii) cooperated, when requested, with appropriate law enforcement agencies of other governments investigating financial crimes related to narcotics; and

“(viii) addressed the problem on international transportation of illegal-source currency and monetary instruments. The report shall also detail instances of refusals to cooperate with foreign governments, and any actions taken by the United States Government and any international organization to address such obstacles, including the imposition of sanctions or penalties.

“(C) The report shall also include information on multilateral and bilateral strategies pursued by the Department of State, the Department of Justice, the Department of the Treasury, and other relevant United States Government agencies, either collectively or individually, to ensure the cooperation of foreign governments with respect to narcotics-related money laundering.

“(D) The report shall include specific detail to demonstrate that all United States Government agencies are pursuing a common strategy with respect to achieving international cooperation against money laundering and are pursuing a common strategy with respect to major money laundering countries, including a summary of United States objectives on a country-by-country basis.

“(E) As used in this paragraph, the term ‘major money laundering country’ means a country whose financial institutions engage in currency transactions involving significant amounts of proceeds from international narcotics trafficking.”

(c) DEFINITION OF MAJOR DRUG-TRANSIT COUNTRY.—Section 481(i)(5) of that Act (22 U.S.C. 2291(i)(5)) is amended—

(1) by inserting “or” at the end of subparagraph (A);

(2) by striking out “or” at the end of subparagraph (B) and inserting in lieu thereof a period; and

(3) by striking out subparagraph (C).

## Subtitle C—Money Laundering Enforcement Improvements

### SEC. 1521. JURISDICTION IN CIVIL FORFEITURE CASES.

Section 1355 of title 28, United States Code, is amended—

(1) by inserting “(a)” before “The district”; and

(2) by adding at the end the following new subsections:

“(b)(1) A forfeiture action or proceeding may be brought in—

“(A) the district court for the district in which any of the acts or omissions giving rise to the forfeiture occurred, or

“(B) any other district where venue for the forfeiture action or proceeding is specifically provided for in section 1395 of this title or any other statute.

“(2) Whenever property subject to forfeiture under the laws of the United States is located in a foreign country, or has been detained or seized pursuant to legal process or competent authority of a foreign government, an action or proceeding for forfeiture may be brought as provided in paragraph (1), or in the United States District court for the District of Columbia.

“(c) In any case in which a final order disposing of property in a civil forfeiture action or proceeding is appealed, removal of

the property by the prevailing party shall not deprive the court of jurisdiction. Upon motion of the appealing party, the district court or the court of appeals shall issue any order necessary to preserve the right of the appealing party to the full value of the property at issue, including a stay of the judgment of the district court pending appeal or requiring the prevailing party to post an appeal bond.

“(d) Any court with jurisdiction over a forfeiture action pursuant to subsection (b) may issue and cause to be served in any other district such process as may be required to bring before the court the property that is the subject of the forfeiture action.”.

#### **SEC. 1522. CIVIL FORFEITURE OF FUNGIBLE PROPERTY.**

(a) **IN GENERAL.**—Chapter 46 of title 18, United States Code, is amended by adding at the end the following new section:

##### **“§ 984. Civil forfeiture of fungible property**

“(a) This section shall apply to any action for forfeiture brought by the Government in connection with any offense under section 1956, 1957, or 1960 of this title or section 5322 of title 31, United States Code.

“(b)(1) In any forfeiture action in rem in which the subject property is cash, monetary instruments in bearer form, funds deposited in an account in a financial institution (as defined in section 20 of this title), or other fungible property—

“(A) it shall not be necessary for the Government to identify the specific property involved in the offense that is the basis for the forfeiture; and

“(B) it shall not be a defense that the property involved in such an offense has been removed and replaced by identical property.

“(2) Except as provided in subsection (c), any identical property found in the same place or account as the property involved in the offense that is the basis for the forfeiture shall be subject to forfeiture under this section.

“(c) No action pursuant to this section to forfeit property not traceable directly to the offense that is the basis for the forfeiture may be commenced more than 1 year from the date of the offense.

“(d)(1) No action pursuant to this section to forfeit property not traceable directly to the offense that is the basis for the forfeiture may be taken against funds held by a financial institution in an interbank account, unless the financial institution holding the account knowingly engaged in the offense.

“(2) As used in this section, the term ‘interbank account’ means an account held by one financial institution at another financial institution primarily for the purpose of facilitating customer transactions.”.

(b) **CONFORMING AMENDMENT.**—The chapter analysis for chapter 46 of title 18, United States Code, is amended by adding at the end the following:

“984. Civil forfeiture of fungible property.”.

#### **SEC. 1523. PROCEDURE FOR SUBPOENAING BANK RECORDS.**

(a) **IN GENERAL.**—Chapter 46 of title 18, United States Code, is amended by adding at the end the following new section:

**“§ 986. Subpoenas for bank records**

“(a) At any time after the commencement of any action for forfeiture in rem brought by the United States under section 1956, 1957, or 1960 of this title, section 5322 of title 31, United States Code, or the Controlled Substances Act, any party may request the Clerk of the Court in the district in which the proceeding is pending to issue a subpoena duces tecum to any financial institution, as defined in section 5312(a) of title 31, United States Code, to produce books, records and any other documents at any place designated by the requesting party. All parties to the proceeding shall be notified of the issuance of any such subpoena. The procedures and limitations set forth in section 985 of this title shall apply to subpoenas issued under this section.

Mail.

“(b) Service of a subpoena issued pursuant to this section shall be by certified mail. Records produced in response to such a subpoena may be produced in person or by mail, common carrier, or such other method as may be agreed upon by the party requesting the subpoena and the custodian of records. The party requesting the subpoena may require the custodian of records to submit an affidavit certifying the authenticity and completeness of the records and explaining the omission of any record called for in the subpoena.

“(c) Nothing in this section shall preclude any party from pursuing any form of discovery pursuant to the Federal Rules of Civil Procedure.”

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 46 of title 18, United States Code, is amended by adding at the end the following:

“986. Subpoenas for bank records.”

**SEC. 1524. DELETION OF REDUNDANT AND INADVERTENTLY LIMITING PROVISION IN 18 U.S.C. 1956.**

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by striking “section 1341 (relating to mail fraud) or section 1343 (relating to wire fraud) affecting a financial institution, section 1344 (relating to bank fraud),”; and

(2) by striking “section 1822 of the Mail Order Drug Paraphernalia Control Act (100 Stat. 3207-51; 21 U.S.C. 857)” and inserting “section 422 of the Controlled Substances Act”.

**SEC. 1525. STRUCTURING TRANSACTIONS TO EVADE CMIR REQUIREMENT.**

(a) IN GENERAL.—Section 5324 of title 31, United States Code, is amended—

(1) by inserting “(a) DOMESTIC COIN AND CURRENCY TRANSACTIONS.—” before “No person”; and

(2) by adding at the end the following:

“(b) INTERNATIONAL MONETARY INSTRUMENT TRANSACTIONS.—No person shall, for the purpose of evading the reporting requirements of section 5316—

“(1) fail to file a report required by section 5316, or cause or attempt to cause a person to fail to file such a report;

“(2) file or cause or attempt to cause a person to file a report required under section 5316 that contains a material omission or misstatement of fact; or

“(3) structure or assist in structuring, or attempt to structure or assist in structuring, any importation or exportation of monetary instruments.”.

(b) **CONFORMING AMENDMENT.**—Section 5321(a)(4)(C) of title 31, United States Code, is amended by striking “under section 5317(d)”.

(c) **FORFEITURE.**—

(1) **TITLE 18.**—Section 981(a)(1)(A) of title 18, United States Code, is amended by striking “5324” and inserting “5324(a)”.

(2) **TITLE 31.**—Section 5317(c) of title 31, United States Code, is amended by inserting after the first sentence “Any property, real or personal, involved in a transaction or attempted transaction in violation of section 5324(b), or any property traceable to such property, may be seized and forfeited to the United States Government.”.

#### **SEC. 1526. CLARIFICATION OF DEFINITION OF FINANCIAL INSTITUTION.**

(a) **SECTION 1956.**—Section 1956(c)(6) of title 18, United States Code, is amended by striking “and the regulations” and inserting “or the regulations”.

(b) **SECTION 1957.**—Section 1957(f)(1) of title 18, United States Code, is amended by striking “financial institution (as defined in section 5312 of title 31)” and inserting “financial institution (as defined in section 1956 of this title)”.

#### **SEC. 1527. DEFINITION OF FINANCIAL TRANSACTION.**

(a) **SECTION 1956.**—Section 1956(c) of title 18, United States Code, is amended—

(1) in paragraph (4)(A)—

(A) by inserting “or (iii) involving the transfer of title to any real property, vehicle, vessel, or aircraft,” after “monetary instruments,”;

(B) by striking “which in any way or degree affects interstate or foreign commerce,”; and

(C) by inserting “which in any way or degree affects interstate or foreign commerce” after “(A) a transaction”; and

(2) in paragraph (3), by inserting “use of a safe deposit box,” before “or any other payment”.

(b) **SECTION 1957.**—Section 1957(f)(1) of title 18, United States Code, is amended by inserting “, including any transaction that would be a financial transaction under section 1956(c)(4)(B) of this title,” before “but such term does not include”.

#### **SEC. 1528. OBSTRUCTING A MONEY LAUNDERING INVESTIGATION.**

Section 1510(b)(3)(B)(i) of title 18, United States Code, is amended by striking “or 1344” and inserting “1344, 1956, 1957, or chapter 53 of title 31”.

#### **SEC. 1529. AWARDS IN MONEY LAUNDERING CASES.**

Section 524(c)(1)(B) of title 28, United States Code, is amended by inserting “or of sections 1956 and 1957 of title 18, sections 5313 and 5324 of title 31, and section 6050I of the Internal Revenue Code of 1986” after “criminal drug laws of the United States”.

**SEC. 1530. PENALTY FOR MONEY LAUNDERING CONSPIRACIES.**

Section 1956 of title 18, United States Code, is amended by inserting at the end the following new subsection:

“(g) Any person who conspires to commit any offense defined in this section or section 1957 shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.”.

**SEC. 1531. TECHNICAL AND CONFORMING AMENDMENTS TO MONEY LAUNDERING PROVISION.**

(a) **TRANSPORTATION.**—Subsections (a)(2) and (b) of section 1956 of title 18, United States Code, are amended by striking “transportation” each time such term appears and inserting “transportation, transmission, or transfer.”

(b) **TECHNICAL CORRECTION.**—Section 1956(a)(3) of title 18, United States Code, is amended by striking “represented by a law enforcement officer” and inserting “represented”.

**SEC. 1532. PRECLUSION OF NOTICE TO POSSIBLE SUSPECTS OF EXISTENCE OF A GRAND JURY SUBPOENA FOR BANK RECORDS IN MONEY LAUNDERING AND CONTROLLED SUBSTANCE INVESTIGATIONS.**

Section 1120(b)(1)(A) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3420(b)(1)(A)) is amended by inserting before the semicolon “or crime involving a violation of the Controlled Substance Act, the Controlled Substances Import and Export Act, section 1956 or 1957 of title 18, sections 5313, 5316 and 5324 of title 31, or section 6050I of the Internal Revenue Code of 1986”.

**SEC. 1533. ELIMINATION OF RESTRICTION ON DISPOSAL OF FORFEITED PROPERTY BY THE DEPARTMENT OF THE TREASURY AND THE POSTAL SERVICE.**

Section 981(e) of title 18, United States Code, is amended by striking “The authority granted to the Secretary of the Treasury and the Postal Service pursuant to this subsection shall apply only to property that has been administratively forfeited.”.

**SEC. 1534. NEW MONEY LAUNDERING PREDICATE OFFENSES.**

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

- (1) by striking “or” before “section 16”;
- (2) by inserting “section 1708 (theft from the mail),” before “section 2113”; and
- (3) by inserting before the semicolon; “, any felony violation of section 9(c) of the Food Stamp Act of 1977 (relating to food stamp fraud) involving a quantity of coupons having a value of not less than \$5,000, or any felony violation of the Foreign Corrupt Practices Act”.

**SEC. 1535. AMENDMENTS TO THE BANK SECRECY ACT.**

(a) **TITLE 31.**—Title 31, United States Code, is amended—

- (1) in section 5324, by inserting “, section 5325, or the regulations issued thereunder” after “section 5313(a)” each place such term appears; and
- (2) in section 5321(a)(5)(A), by inserting “or any person willfully causing” after “willfully violates”.

(b) **FEDERAL DEPOSIT INSURANCE ACT.**—Section 21(j)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1829b(j)(1)) is amended



by inserting “, or any person who willfully causes such a violation,” after “gross negligence violates”.

(c) **RECORDKEEPING.**—Public Law 91-508 (12 U.S.C. 1951 et seq.) is amended—

(1) in section 125(a), by inserting “or any person willfully causing a violation of the regulation,” after “applies,”; and 12 USC 1955.

(2) in section 127, by inserting “, or willfully causes a violation of” after “Whoever willfully violates”. 12 USC 1957.

**SEC. 1536. EXPANSION OF MONEY LAUNDERING LAW TO COVER PROCEEDS OF CERTAIN FOREIGN CRIMES.**

Section 1956(c)(7)(B) of title 18, United States Code, is amended—

(1) by striking “involving the manufacture” and inserting the following: “involving—

“(i) the manufacture”; and

(2) by adding at the end the following:

“(ii) kidnapping, robbery, or extortion; or

“(iii) fraud, or any scheme or attempt to defraud, by or against a foreign bank (as defined in paragraph 7 of section 1(b) of the International Banking Act of 1978;”.

## Subtitle D—Reports and Miscellaneous

**SEC. 1541. STUDY AND REPORT ON REIMBURSING FINANCIAL INSTITUTIONS AND OTHERS FOR PROVIDING FINANCIAL RECORDS.**

(a) **STUDY REQUIRED.**—The Attorney General, in consultation with the Secretary of the Treasury and the Board of Governors of the Federal Reserve System and other appropriate banking regulatory agencies, shall conduct a study of the effect of amending the Right to Financial Privacy Act of 1978 by allowing reimbursement to financial institutions for assembling or providing financial records on corporations and other entities not currently covered under section 1115(a) of such Act. The study shall also include analysis of the effect of allowing nondepositor licensed transmitters of funds to be reimbursed to the same extent as financial institutions under that section.

(b) **REPORT.**—Before the end of the 180-day period beginning on the date of enactment of this Act, the Attorney General shall submit a report to the Congress on the results of the study conducted pursuant to subsection (a).

**SEC. 1542. REPORTS OF INFORMATION REGARDING SAFETY AND SOUNDNESS OF DEPOSITORY INSTITUTIONS.**

12 USC  
1831m-1.

(a) **REPORTS TO APPROPRIATE FEDERAL BANKING AGENCIES.**—

(1) **IN GENERAL.**—The Attorney General, the Secretary of the Treasury, and the head of any other agency or instrumentality of the United States shall, unless otherwise prohibited by law, disclose to the appropriate Federal banking agency any information that the Attorney General, the Secretary of the Treasury, or such agency head believes raises significant concerns regarding the safety or soundness of any depository institution doing business in the United States.

(2) **EXCEPTIONS.**—

(A) **INTELLIGENCE INFORMATION.**—

(i) **IN GENERAL.**—The Director of Central Intelligence shall disclose to the Attorney General or the Secretary of the Treasury any intelligence information that would otherwise be reported to an appropriate Federal banking agency pursuant to paragraph (1). After consultation with the Director of Central Intelligence, the Attorney General or the Secretary of the Treasury, shall disclose the intelligence information to the appropriate Federal banking agency.

(ii) **PROCEDURES FOR RECEIPT OF INTELLIGENCE INFORMATION.**—Each appropriate Federal banking agency, in consultation with the Director of Central Intelligence, shall establish procedures for receipt of intelligence information that are adequate to protect the intelligence information.

(B) **CRIMINAL INVESTIGATIONS, SAFETY OF GOVERNMENT INVESTIGATORS, INFORMANTS, AND WITNESSES.**—If the Attorney General, the Secretary of the Treasury or their respective designees determines that the disclosure of information pursuant to paragraph (1) may jeopardize a pending civil investigation or litigation, or a pending criminal investigation or prosecution, may result in serious bodily injury or death to Government employees, informants, witnesses or their respective families, or may disclose sensitive investigative techniques and methods, the Attorney General or the Secretary of the Treasury shall—

(i) provide the appropriate Federal banking agency a description of the information that is as specific as possible without jeopardizing the investigation, litigation, or prosecution, threatening serious bodily injury or death to Government employees, informants, or witnesses or their respective families, or disclosing sensitive investigation techniques and methods; and

(ii) permit a full review of the information by the Federal banking agency at a location and under procedures that the Attorney General determines will ensure the effective protection of the information while permitting the Federal banking agency to ensure the safety and soundness of any depository institution.

(C) **GRAND JURY INVESTIGATIONS; CRIMINAL PROCEDURE.**—Paragraph (1) shall not—

(i) apply to the receipt of information by an agency or instrumentality in connection with a pending grand jury investigation; or

(ii) be construed to require disclosure of information prohibited by rule 6 of the Federal Rules of Criminal Procedure.

(b) **PROCEDURES FOR RECEIPT OF DISCLOSURE REPORTS.**—

(1) **IN GENERAL.**—Within 90 days after the date of enactment of this Act, each appropriate Federal banking agency shall establish procedures for receipt of a disclosure report by an agency or instrumentality made in accordance with subsection (a)(1). The procedures established in accordance with this subsection shall ensure adequate protection of information disclosed, including access control and information accountability.

**(2) PROCEDURES RELATED TO EACH DISCLOSURE REPORT.—**

Upon receipt of a report in accordance with subsection (a)(1), the appropriate Federal banking agency shall—

(A) consult with the agency or instrumentality that made the disclosure regarding the adequacy of the procedures established pursuant to paragraph (1), and

(B) adjust the procedures to ensure adequate protection of the information disclosed.

(c) **EFFECT ON AGENCIES.**—This section does not impose an affirmative duty on the Attorney General, the Secretary of the Treasury, or the head of any agency or instrumentality of the United States to collect new or to review existing information.

(d) **DEFINITIONS.**—For purposes of this section, the terms “appropriate Federal banking agency” and “depository institution” have the same meanings as in section 8 of the Federal Deposit Insurance Act.

(e) **REPORT.**—The Attorney General and the Secretary of the Treasury shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives, not later than 90 days after the end of each calendar year on their utilization of the exceptions provided in subsection (a)(1)(B).

**SEC. 1543. IMMUNITY.**

Section 6001(1) of title 18, United States Code, is amended by inserting “the Board of Governors of the Federal Reserve System,” after “the Atomic Energy Commission,”.

**SEC. 1544. INTERAGENCY INFORMATION SHARING.**

Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by adding at the end the following new subsection:

“(t) **AGENCIES MAY SHARE INFORMATION WITHOUT WAIVING PRIVILEGE.**—

“(1) **IN GENERAL.**—A covered agency shall not be deemed to have waived any privilege applicable to any information by transferring that information to or permitting that information to be used by—

“(A) any other covered agency, in any capacity; or

“(B) any other agency of the Federal Government (as defined in section 6 of title 18, United States Code).

“(2) **DEFINITIONS.**—For purposes of this subsection:

“(A) **COVERED AGENCY.**—The term ‘covered agency’ means any of the following:

“(i) Any appropriate Federal banking agency.

“(ii) The Resolution Trust Corporation.

“(iii) The Farm Credit Administration.

“(iv) The Farm Credit System Insurance Corporation.

“(v) The National Credit Union Administration.

“(B) **PRIVILEGE.**—The term ‘privilege’ includes any work-product, attorney-client, or other privilege recognized under Federal or State law.

“(3) **RULE OF CONSTRUCTION.**—Paragraph (1) shall not be construed as implying that any person waives any privilege applicable to any information because paragraph (1) does not apply to the transfer or use of that information.”.

Counterfeit  
Deterrence  
Act of 1992.  
18 USC 471  
note.

## Subtitle E—Counterfeit Deterrence

### SEC. 1551. SHORT TITLE.

This subtitle may be cited as the “Counterfeit Deterrence Act of 1992”.

### SEC. 1552. INCREASE IN PENALTIES.

Section 474 of title 18, United States Code, is amended—

(1) by inserting “(a)” before “Whoever” the first time it appears;

(2) by striking “United States; or” at the end of the sixth undesignated paragraph and inserting “United States—”;

(3) by striking the seventh undesignated paragraph;

(4) by amending the last undesignated paragraph to read as follows:

“Is guilty of a class C felony.”; and

(5) by adding at the end thereof the following:

“(b) For purposes of this section, the terms ‘plate’, ‘stone’, ‘thing’, or ‘other thing’ includes any electronic method used for the acquisition, recording, retrieval, transmission, or reproduction of any obligation or other security, unless such use is authorized by the Secretary of the Treasury. The Secretary shall establish a system (pursuant to section 504) to ensure that the legitimate use of such electronic methods and retention of such reproductions by businesses, hobbyists, press and others shall not be unduly restricted.”.

### SEC. 1553. DETERRENTS TO COUNTERFEITING.

(a) IN GENERAL.—Chapter 25 of title 18, United States Code, is amended by inserting after section 474 the following new section:

#### “§ 474A. Deterrents to counterfeiting of obligations and securities

“(a) Whoever has in his control or possession, after a distinctive paper has been adopted by the Secretary of the Treasury for the obligations and other securities of the United States, any similar paper adapted to the making of any such obligation or other security, except under the authority of the Secretary of the Treasury, is guilty of a class C felony.

“(b) Whoever has in his control or possession, after a distinctive counterfeit deterrent has been adopted by the Secretary of the Treasury for the obligations and other securities of the United States by publication in the Federal Register, any essentially identical feature or device adapted to the making of any such obligation or security, except under the authority of the Secretary of the Treasury, is guilty of a class C felony.

“(c) As used in this section—

“(1) the term ‘distinctive paper’ includes any distinctive medium of which currency is made, whether of wood pulp, rag, plastic substrate, or other natural or artificial fibers or materials; and

“(2) the term ‘distinctive counterfeit deterrent’ includes any ink, watermark, seal, security thread, optically variable device, or other feature or device;

“(A) in which the United States has an exclusive property interest; or

“(B) which is not otherwise in commercial use or in the public domain and which the Secretary designates as being necessary in preventing the counterfeiting of obligations or other securities of the United States.”.

(b) CHAPTER ANALYSIS.—The chapter analysis for chapter 25 of title 18, United States Code, is amended by adding after the item for section 474 the following:

“474A. Deterrents to counterfeiting of obligations and securities.”.

#### SEC. 1554. REPRODUCTIONS OF CURRENCY.

Section 504 of title 18, United States Code, is amended—

(1) in paragraph (1)(D), by striking the comma at the end thereof and inserting a period;

(2) in paragraph (1)—

(A) by striking “for philatelic” from the text following subparagraph (D) and all that follows through “albums.”; and

(B) by adding at the end the following new sentence:

“The Secretary of the Treasury shall prescribe regulations to permit color illustrations of such currency of the United States as the Secretary determines may be appropriate for such purposes.”.

Regulations.

(3) by redesignating paragraph (2) as paragraph (3) and inserting after paragraph (1) the following new paragraph:

“(2) The provisions of this section shall not permit the reproduction of illustrations of obligations or other securities, by or through electronic methods used for the acquisition, recording, retrieval, transmission, or reproduction of any obligation or other security, unless such use is authorized by the Secretary of the Treasury. The Secretary shall establish a system to ensure that the legitimate use of such electronic methods and retention of such reproductions by businesses, hobbyists, press or others shall not be unduly restricted.”; and

(4) in paragraph (3), as redesignated by paragraph (3) of this subsection, by striking “but not for advertising purposes except philatelic advertising.”.

## Subtitle F—Miscellaneous Provisions

#### SEC. 1561. CIVIL MONEY PENALTIES.

(a) IN GENERAL.—Section 5321(a)(6) of title 31, United States Code, is amended to read as follows:

“(6) NEGLIGENCE.—

“(A) IN GENERAL.—The Secretary of the Treasury may impose a civil money penalty of not more than \$500 on any financial institution which negligently violates any provision of this subchapter or any regulation prescribed under this subchapter.

“(B) PATTERN OF NEGLIGENT ACTIVITY.—If any financial institution engages in a pattern of negligent violations of any provision of this subchapter or any regulation prescribed under this subchapter, the Secretary of the Treasury may, in addition to any penalty imposed under subparagraph (A) with respect to any such violation, impose a civil money penalty of not more than \$50,000 on the financial institution.”.

31 USC 5321  
note.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply with respect to violations committed after the date of the enactment of this Act.

**SEC. 1562. AUTHORITY TO ORDER DEPOSITORY INSTITUTIONS TO OBTAIN COPIES OF CTRS FROM CUSTOMERS WHICH ARE UNREGULATED BUSINESSES.**

Section 5326 of title 31, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (d); and

(2) by inserting after subsection (a) the following new sub-

section:

**“(b) AUTHORITY TO ORDER DEPOSITORY INSTITUTIONS TO OBTAIN REPORTS FROM CUSTOMERS.—**

**“(1) IN GENERAL.**—The Secretary of the Treasury may, by regulation or order, require any depository institution (as defined in section 3(c) of the Federal Deposit Insurance Act)—

**“(A) to request any financial institution (other than a depository institution) which engages in any reportable transaction with the depository institution to provide the depository institution with a copy of any report filed by the financial institution under this subtitle with respect to any prior transaction (between such financial institution and any other person) which involved any portion of the coins or currency (or monetary instruments) which are involved in the reportable transaction with the depository institution; and**

**“(B) if no copy of any report described in subparagraph (A) is received by the depository institution in connection with any reportable transaction to which such subparagraph applies, to submit (in addition to any report required under this subtitle with respect to the reportable transaction) a written notice to the Secretary that the financial institution failed to provide any copy of such report.**

**“(2) REPORTABLE TRANSACTION DEFINED.**—For purposes of this subsection, the term ‘reportable transaction’ means any transaction involving coins or currency (or such other monetary instruments as the Secretary may describe in the regulation or order) the total amounts or denominations of which are equal to or greater than an amount which the Secretary may prescribe.”.

**SEC. 1563. WHISTLEBLOWER PROTECTION FOR EMPLOYEES OF FINANCIAL INSTITUTIONS OTHER THAN DEPOSITORY INSTITUTIONS.**

(a) **IN GENERAL.**—Subchapter II of chapter 53 of title 31, United States Code, is amended by inserting after section 5327 (as added by section 1511(a) of this title) the following new section:

**“§ 5328. Whistleblower protections**

**“(a) PROHIBITION AGAINST DISCRIMINATION.**—No financial institution may discharge or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to the Secretary of the Treasury, the Attorney General, or any Federal supervisory agency regarding a possible violation of any provision of this subchapter or section 1956, 1957, or 1960 of title 18, or any regulation under any such provision, by the financial

institution or any director, officer, or employee of the financial institution.

**"(b) ENFORCEMENT.**—Any employee or former employee who believes that such employee has been discharged or discriminated against in violation of subsection (a) may file a civil action in the appropriate United States district court before the end of the 2-year period beginning on the date of such discharge or discrimination.

**"(c) REMEDIES.**—If the district court determines that a violation has occurred, the court may order the financial institution which committed the violation to—

**"(1)** reinstate the employee to the employee's former position;

**"(2)** pay compensatory damages; or

**"(3)** take other appropriate actions to remedy any past discrimination.

**"(d) LIMITATION.**—The protections of this section shall not apply to any employee who—

**"(1)** deliberately causes or participates in the alleged violation of law or regulation; or

**"(2)** knowingly or recklessly provides substantially false information to the Secretary, the Attorney General, or any Federal supervisory agency.

**"(e) COORDINATION WITH OTHER PROVISIONS OF LAW.**—This section shall not apply with respect to any financial institution which is subject to section 33 of the Federal Deposit Insurance Act, section 213 of the Federal Credit Union Act, or section 21A(q) of the Home Owners' Loan Act (as added by section 251(c) of the Federal Deposit Insurance Corporation Improvement Act of 1991)."

**(b) CLERICAL AMENDMENT.**—The table of sections for chapter 53 of title 31, United States Code, is amended by inserting after the item relating to section 5327 (as added by section 1511(c) of this Act) the following new item:

"5328. Whistleblower protections."

#### **SEC. 1564. ADVISORY GROUP ON REPORTING REQUIREMENTS.**

31 USC 5311  
note.

**(a) ESTABLISHMENT.**—Not later than 90 days after the date of the enactment of this Act, the Secretary of the Treasury shall establish a Bank Secrecy Act Advisory Group consisting of representatives of the Department of the Treasury, the Department of Justice, and the Office of National Drug Control Policy and of other interested persons and financial institutions subject to the reporting requirements of subchapter II of chapter 53 of title 31, United States Code, or section 6050I of the Internal Revenue Code of 1986.

**(b) PURPOSES.**—The Advisory Group shall provide a means by which the Secretary—

**(1)** informs private sector representatives, on a regular basis, of the ways in which the reports submitted pursuant to the requirements referred to in subsection (a) have been used;

**(2)** informs private sector representatives, on a regular basis, of how information regarding suspicious financial transactions provided voluntarily by financial institutions has been used; and

(3) receives advice on the manner in which the reporting requirements referred to in subsection (a) should be modified to enhance the ability of law enforcement agencies to use the information provided for law enforcement purposes.

(c) **INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.**—The Federal Advisory Committee Act shall not apply to the Bank Secrecy Act Advisory Group established pursuant to subsection (a).

31 USC 5311  
note.

**SEC. 1545. GAO FEASIBILITY STUDY OF THE FINANCIAL CRIMES ENFORCEMENT NETWORK.**

(a) **STUDY REQUIRED.**—The Comptroller General of the United States shall conduct a feasibility study of the Financial Crimes Enforcement Network (popularly referred to as “Fincen”) established by the Secretary of the Treasury in cooperation with other agencies and departments of the United States and appropriate Federal banking agencies.

(b) **SPECIFIC REQUIREMENTS.**—In conducting the study required under subsection (a), the Comptroller General shall examine and evaluate—

(1) the extent to which Federal, State, and local governmental and nongovernmental organizations are voluntarily providing information which is necessary for the system to be useful for law enforcement purposes;

(2) the extent to which the operational guidelines established for the system provide for the coordinated and efficient entry of information into, and withdrawal of information from, the system;

(3) the extent to which the operating procedures established for the system provide appropriate standards or guidelines for determining—

(A) who is to be given access to the information in the system;

(B) what limits are to be imposed on the use of such information; and

(C) how information about activities or relationships which involve or are closely associated with the exercise of constitutional rights is to be screened out of the system; and

(4) the extent to which the operating procedures established for the system provide for the prompt verification of the accuracy and completeness of information entered into the system and the prompt deletion or correction of inaccurate or incomplete information.

(c) **REPORT TO CONGRESS.**—Before the end of the 1-year period, beginning on the date of the enactment of this Act, the Comptroller General of the United States shall submit a report to the Congress containing the findings and conclusions of the Comptroller General in connection with the study conducted pursuant to subsection (a), together with such recommendations for legislative or administrative action as the Comptroller General may determine to be appropriate.



# **TITLE XVI—TECHNICAL CORRECTIONS OF BANKING LAWS**

## **Subtitle A—Federal Deposit Insurance Corporation Improvement Act**

### **SEC. 1601. TABLE OF CONTENTS.**

Section 1 of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended to read as follows:

#### **"SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

"(a) **SHORT TITLE.**—This Act may be cited as the 'Federal Deposit Insurance Corporation Improvement Act of 1991'.

12 USC 1811  
note.

"(b) **TABLE OF CONTENTS.**—

"Sec. 1. Short title; table of contents.

#### **"TITLE I—SAFETY AND SOUNDNESS**

##### **"Subtitle A—Deposit Insurance Funds**

"Sec. 101. Funding for the Federal deposit insurance funds.

"Sec. 102. Limitation on outstanding borrowing.

"Sec. 103. Repayment schedule.

"Sec. 104. Recapitalizing the Bank Insurance Fund.

"Sec. 105. Borrowing for BIF from BIF members.

##### **"Subtitle B—Supervisory Reforms**

"Sec. 111. Improved examinations.

"Sec. 112. Independent annual audits of insured depository institutions.

"Sec. 113. Assessments required to cover costs of examinations.

"Sec. 114. Examination and supervision fees for national banks and savings associations.

"Sec. 115. Application to FDIC required for insurance.

##### **"Subtitle C—Accounting Reforms**

"Sec. 121. Accounting objectives, standards, and requirements.

"Sec. 122. Small business and small farm loan information.

"Sec. 123. FDIC property disposition standards.

##### **"Subtitle D—Prompt Corrective Action**

"Sec. 131. Prompt corrective action.

"Sec. 132. Standards for safety and soundness.

"Sec. 133. Conservatorship and receivership amendments to facilitate prompt corrective action.

##### **"Subtitle E—Least-Cost Resolution**

"Sec. 141. Least-cost resolution.

"Sec. 142. Federal Reserve discount window advances.

"Sec. 143. Early resolution.

##### **"Subtitle F—Depository Institutions Lacking Federal Deposit Insurance**

"Sec. 151. Depository institutions lacking Federal deposit insurance.

##### **"Subtitle G—Technical Corrections**

"Sec. 161. Technical corrections and clarifications.

#### **"TITLE II—REGULATORY IMPROVEMENT**

##### **"Subtitle A—Regulation of Foreign Banks**

"Sec. 201. Short title.

"Sec. 202. Regulation of foreign bank operations.

"Sec. 203. Conduct and coordination of examinations.

"Sec. 204. Supervision of the representative offices of foreign banks.

"Sec. 205. Reporting of stock loans.

- "Sec. 206. Cooperation with foreign supervisors.
- "Sec. 207. Approval required for acquisition by foreign banks of shares of United States banks.
- "Sec. 208. Penalties.
- "Sec. 209. Powers of agencies respecting applications, examinations, and other proceedings.
- "Sec. 210. Clarification of managerial standards in Bank Holding Company Act of 1956.
- "Sec. 211. Standards and factors in the Home Owners' Loan Act.
- "Sec. 212. Authority of Federal banking agencies to enforce consumer statutes.
- "Sec. 213. Criminal penalty for violating the International Banking Act of 1978.
- "Sec. 214. Miscellaneous amendments to the International Banking Act of 1978.
- "Sec. 215. Study and report on subsidiary requirements for foreign banks.

"Subtitle B—Customer and Consumer Provisions

- "Sec. 221. Study on regulatory burden.
- "Sec. 222. Discussion of lending data.
- "Sec. 223. Enforcement of Equal Credit Opportunity Act.
- "Sec. 224. Home Mortgage Disclosure Act.
- "Sec. 225. Notice of safeguard exception.
- "Sec. 226. Delegated processing.
- "Sec. 227. Deposits at nonproprietary automated teller machines.
- "Sec. 228. Notice of branch closure.

"Subtitle C—Bank Enterprise Act

- "Sec. 231. Short title.
- "Sec. 232. Reduced assessment rate for deposits attributable to lifeline accounts.
- "Sec. 233. Assessment credits for qualifying activities relating to distressed communities.
- "Sec. 234. Community development organizations.

"Subtitle D—FDIC Property Disposition

- "Sec. 241. FDIC affordable housing program.

"Subtitle E—Whistleblower Protections

- "Sec. 251. Additional whistleblower protections.

"Subtitle F—Truth in Savings

- "Sec. 261. Short title.
- "Sec. 262. Findings and purpose.
- "Sec. 263. Disclosure of interest rates and terms of accounts.
- "Sec. 264. Account schedule.
- "Sec. 265. Disclosure requirements for certain accounts.
- "Sec. 266. Distribution of schedules.
- "Sec. 267. Payment of interest.
- "Sec. 268. Periodic statements.
- "Sec. 269. Regulations.
- "Sec. 270. Administrative enforcement.
- "Sec. 271. Civil liability.
- "Sec. 272. Credit unions.
- "Sec. 273. Effect on State law.
- "Sec. 274. Definitions.

"TITLE III—FEDERAL DEPOSIT INSURANCE REFORM

"Subtitle A—Activities

- "Sec. 301. Limitations on brokered deposits and deposit solicitations.
- "Sec. 302. Risk-based assessments.
- "Sec. 303. Restrictions on insured State bank activities.
- "Sec. 304. Restrictions on real estate lending.
- "Sec. 305. Improving capital standards.
- "Sec. 306. Safeguards against insider abuse.
- "Sec. 307. FDIC back-up enforcement authority.
- "Sec. 308. Interbank liabilities.

"Subtitle B—Coverage

- "Sec. 311. Deposit and pass-through insurance.
- "Sec. 312. Foreign deposits.
- "Sec. 313. Penalty for false assessment reports.

"Subtitle C—Demonstration Project and Studies

- "Sec. 321. Feasibility study on authorizing insured and uninsured deposit accounts.

"Sec. 322. Private reinsurance study.

**"TITLE IV—MISCELLANEOUS PROVISIONS**

**"Subtitle A—Payment System Risk Reduction**

"Sec. 401. Findings and purpose.

"Sec. 402. Definitions.

"Sec. 403. Bilateral netting.

"Sec. 404. Clearing organization netting.

"Sec. 405. Preemption.

"Sec. 406. Relationship to other payments systems.

"Sec. 407. National emergencies.

**"Subtitle B—Right to Financial Privacy Act of 1978**

"Sec. 411. Amendments to the Right to Financial Privacy Act of 1978.

**"Subtitle C—Final Settlement Payment Procedure**

"Sec. 416. Final settlement payment procedure.

**"Subtitle D—Miscellaneous Committees, Studies, and Reports**

"Sec. 421. Amendments relating to Federal Reserve Board reserve requirements.

"Sec. 422. Permanent authorization of Credit Standards Advisory Committee.

**"Subtitle E—Utilization of Private Sector**

"Sec. 426. Utilization of private sector.

"Sec. 427. Reporting.

**"Subtitle F—Emergency Assistance for Rhode Island**

"Sec. 431. Emergency loan guarantee.

**"Subtitle G—Qualified Thrift Lender Test Improvements**

"Sec. 436. Short title.

"Sec. 437. Adjustment of compliance periods for purposes of qualified thrift lender test.

"Sec. 438. Increase in amount of liquid assets excludable from portfolio assets.

"Sec. 439. Additional investments included in definition of qualified thrift assets.

"Sec. 440. Prudent diversification of assets.

"Sec. 441. Consumer lending by Federal savings associations.

**"Subtitle H—Prohibition on Entering Secrecy Agreements and Protective Orders**

"Sec. 446. Prohibition on entering into secrecy agreements and protective orders.

**"Subtitle I—Bank and Thrift Employee Provisions**

"Sec. 451. Continuation of health plan coverage in cases of failed financial institutions.

**"Subtitle J—Sense of the Congress Regarding the Credit Crisis**

"Sec. 456. Credit crunch.

**"Subtitle K—Acquisition of Insolvent Savings Associations**

"Sec. 461. Acquisition of insolvent savings associations.

**"Subtitle L—Creditability of Service**

"Sec. 466. Creditability of service.

**"Subtitle M—Other Miscellaneous Provisions**

"Sec. 471. Providing services to insured depository institutions.

"Sec. 472. Real estate appraisals.

"Sec. 473. Emergency liquidity.

"Sec. 474. Discrimination against reorganized debtors.

"Sec. 475. Purchased mortgage servicing rights.

"Sec. 476. Limitation on securities private rights of action.

"Sec. 477. Modified small business lending disclosure.

"Sec. 478. Special insured deposits.

**"Subtitle N—Severability**

"Sec. 481. Severability.

**"TITLE V—DEPOSITORY INSTITUTION CONVERSIONS**

"Sec. 501. Mergers and acquisitions of insured depository institutions during conversion moratorium.

"Sec. 502. Mergers, consolidations, and other acquisitions authorized."

**SEC. 1602. TRANSFER AND REDESIGNATION OF SECTIONS WITH DUPLICATE SECTION NUMBERS.**

(a) **DUPLICATE SECTION 39.**—The section of the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) which was added by section 228 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (relating to notice of branch closures and designated as section 39) is hereby—

12 USC 1831p,  
1831r-1.

(1) transferred and inserted after section 41 of the Federal Deposit Insurance Act (as added by section 312 of the Federal Deposit Insurance Corporation Improvement Act of 1991); and

(2) redesignated as section 42.

(b) **DUPLICATE SECTION 40.**—The section of the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) which was added by section 151 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (relating to depository institutions lacking Federal deposit insurance and designated as section 40) is hereby—

12 USC 1831t.

(1) transferred and inserted after section 42 of the Federal Deposit Insurance Act (as transferred and redesignated by subsection (a) of this section); and

(2) redesignated as section 43.

**SEC. 1603. TECHNICAL CORRECTIONS RELATING TO TITLE I OF THE FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991.**

(a) **AMENDMENTS RELATING TO SUBTITLE A.**—

(1) The 1st sentence of section 7(b)(1)(A)(iii) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(1)(A)(iii)) (as amended by section 104(b) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by inserting "rate" before the period.

(2) Section 14(d)(2)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1824(d)(2)(D)) (as amended by section 105 of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking "Member" and inserting "member".

(3) Effective on the effective date of the amendment made by section 302(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991, section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(c)) (as amended by such section 302(a)) is amended—

(A) by adding at the end, the paragraph added to such section 7(b) (as in effect on the day before the effective date of such amendment) by section 103(b)(2) of the Federal Deposit Insurance Corporation Improvement Act of 1991; and

(B) by redesignating such paragraph as paragraph (6).

(b) **AMENDMENTS RELATING TO SUBTITLE B.**—

(1) Section 10(d) of the Federal Deposit Insurance Act (12 U.S.C. 1820(d)) (as added by section 111 of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended—

(A) in paragraph (5), by inserting "or the Resolution Trust Corporation" after "the Corporation" each place such term appears;

(B) in paragraph (5)(B), by inserting a comma after “bank”; and

(C) by striking paragraph (6).

(2) Section 112 of the Federal Deposit Insurance Corporation Improvement Act of 1992 is amended—

12 USC 1831m  
note.

(A) by redesignating subsection (b) as subsection (c); and

(B) by inserting after subsection (a) the following new subsection:

“(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 3(r) of the Federal Deposit Insurance Act (12 U.S.C. 1813(r)) is amended to read as follows:

“(r) STATE BANK SUPERVISOR.—

“(1) IN GENERAL.—The term “State bank supervisor” means any officer, agency, or other entity of any State which has primary regulatory authority over State banks or State savings associations in such State.

“(2) INTERSTATE APPLICATION.—The State bank supervisors of more than 1 State may be the appropriate State bank supervisor for any insured depository institution.”.

(3) Section 36 of the Federal Deposit Insurance Act (as added by section 112 of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended—

12 USC 1831m.

(A) in subsection (b)(2)(A)(iii), by striking “Corporation or” and inserting “Corporation and”;

(B) in subsection (g)(3)(A)(i), by striking “an appropriate” and inserting “any appropriate”; and

(C) in subsection (g)(5), by inserting “and each appropriate Federal banking agency” after “Corporation” each place such term appears.

(4) Section 113(a)(2) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by striking “111(a)(1)” and inserting “111(a)”.

12 USC 1820.

(5) The 1st sentence of the 4th undesignated paragraph of section 5240 of the Revised Statutes (12 U.S.C. 482) (as amended by section 114 of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking “duties” and inserting “office”.

(6) Section 115(b) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by inserting “Section” before “4(b)”.

12 USC 1814.

(c) AMENDMENT RELATING TO SUBTITLE C.—Section 122 of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by redesignating subsection (d) as subsection (c).

12 USC 1817  
note.

(d) AMENDMENTS RELATING TO SUBTITLE D.—

(1) Section 38 of the Federal Deposit Insurance Act (as added by section 131(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended—

12 USC 1831o.

(A) in subsection (e)(2)(D)(i), by striking “and” where such term appears after the semicolon;

(B) in subsection (f)(6), by striking “functional regulator (as defined in section 2(s) of the Bank Holding Company Act of 1956)” and insert “appropriate regulator”;

(C) in subsection (g)(1)(B), by striking “capitalized,” and inserting “capitalized (but not well capitalized),”; and

(D) in the heading of subsection (f)(6), by striking “FUNCTIONAL” and inserting “OTHER”.

12 USC 1818.

(2) Section 131(c)(2)(A) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by inserting "the 1st and 2d place such term appears" before the semicolon.

(3) Section 8(i)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)(1)) (as amended by section 131(c)(2)(A) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended—

(A) by inserting "or 39" after "38" each place such term appears; and

(B) by striking "order under this section, or to review" and inserting "order under any such section, or to review".

(4) Section 8(i)(2)(A)(ii) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)(2)(A)(ii)) (as amended by section 131(c)(2)(B) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking "subsection (b)," and all that follows through the semicolon and inserting "subsection (b), (c), (e), (g), or (s) or any final order under section 38 or 39;".

12 USC 1813.

(5) Section 131(c)(3) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by striking "adding at the end" and inserting "inserting after subsection (x)".

12 USC 191.

(6) Section 133(b) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by striking "Section 1 of the Act of June 30, 1876" and inserting "The 1st section of the Act entitled 'An Act authorizing the appointment of receivers of national banking associations, and for other purposes,' and approved June 30, 1876".

(7) The Act entitled "An Act authorizing the appointment of receivers of national banking associations, and for other purposes," and approved June 30, 1876 (as amended by section 133(b) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended—

12 USC 191.

(A) by redesignating section 1 as section 2 and by inserting after the enacting clause the following new section:

National Bank  
Receivership  
Act.  
12 USC 191  
note.  
12 USC 191.

#### "SECTION 1. SHORT TITLE.

"This Act may be cited as the 'National Bank Receivership Act'"; and

(B) in section 2 (as amended by section 133(b) of the Federal Deposit Insurance Corporation Improvement Act of 1991 and redesignated by subparagraph (A) of this paragraph), by striking "appoint the Federal Deposit Insurance Corporation as receiver for any national banking association" and inserting "appoint a receiver for any national bank (and such receiver shall be the Federal Deposit Insurance Corporation if the national bank is an insured bank (as defined in section 3(h) of the Federal Deposit Insurance Act))".

(8) Effective on the effective date of the amendment made by section 133(d)(1) of the Federal Deposit Insurance Corporation Improvement Act of 1991, section 5(d)(2)(A) of the Home Owners' Loan Act (12 U.S.C. 1464(d)(2)(A)) (as amended by such section 133(d)(1)) is amended by inserting a period at the end.

(9) The paragraph designated as "(p)" of section 11 of the Federal Reserve Act (12 U.S.C. 248) (as added by section

133(f) of the Federal Deposit Insurance Corporation Improvement Act of 1992) is hereby redesignated as paragraph (o).

(10) The heading of subtitle D of title I of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended to read as follows:

105 Stat. 2253.

### **“Subtitle D—Prompt Corrective Action”.**

(11) The heading of section 131 of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended to read as follows:

#### **“SEC. 131. PROMPT CORRECTIVE ACTION.”**

(12) The heading of section 133 of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by striking “REGULATORY” and inserting “CORRECTIVE”.

105 Stat. 2270.

#### **(e) AMENDMENTS RELATING TO SUBTITLE E.—**

(1) Section 11(d)(5)(D)(iii)(I) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(5)(D)(iii)(I)) (as amended by section 141(b) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking “institution described in paragraph (3)(A)” and inserting “insured depository institution”.

(2) The amendment made by section 142(c) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (adding a paragraph at the end of section 11 of the Federal Reserve Act) shall be considered to have been executed before the amendment made by section 133(f) of the Federal Deposit Insurance Corporation Improvement Act of 1991.

12 USC 248  
note.

#### **(f) AMENDMENTS RELATING TO SUBTITLE F.—**

(1) Section 151(b) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended—

12 USC 1831t  
note.

(A) in paragraph (1), by striking “section 40(a)(1)” and inserting “section 43(a)(1)”; and

(B) in paragraph (3)—

(i) by striking “‘deposit,’”;

(ii) by striking “and”;

(iii) by inserting “, and ‘private deposit insurer’” before “have the same meaning”; and

(iv) by striking “section 40(f)” and inserting “section 43(f)”.

(2) The heading of subtitle F of title I of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended to read as follows:

105 Stat. 2282.

### **“Subtitle F—Depository Institutions Lacking Federal Deposit Insurance”.**

#### **SEC. 1604. TECHNICAL CORRECTIONS RELATING TO TITLE II OF THE FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991.**

##### **(a) AMENDMENTS RELATING TO SUBTITLE A.—**

(1) Section 7(e)(6) of the International Banking Act of 1978 (as added by section 202(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended—

12 USC 3105.

(A) in subparagraph (A), by striking “against which the Board or, in the case of an order issued under section 4(i), the Comptroller of the Currency has issued an order under paragraph (1) or a refusal by such office or subsidiary” and inserting “against which—

“(i) the Board has issued an order under paragraph (1); or

“(ii) the Comptroller of the Currency has issued an order under section 4(i), or a refusal by such office or subsidiary”; and

(B) in subparagraph (B), by striking “order issued under paragraph (1)” and inserting “order referred to in subparagraph (A)”.

12 USC 3105.

(2) Section 7(e)(7) of the International Banking Act of 1978 (as added by section 202(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking “public” and inserting “public”.

(3) Section 10(b)(6)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)(6)(A)) (as amended by section 203(c)(2) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking “paragraph (2)” and all that follows through the semicolon and inserting “paragraph (2), (3), (4), or (5);”.

(4) Section 10(b) of the International Banking Act of 1978 (12 U.S.C. 3107(b)) (as amended by section 204 of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking “paragraphs (1), (2), and (3) of section 7(d)” and inserting “section 7(e)”.

(5) Section 108(a)(1)(C) of the Truth in Lending Act (15 U.S.C. 1607(a)(1)(C)) (as amended by section 212(b) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking the period at the end and inserting a semicolon.

(6) Section 621(b)(1)(C) of the Fair Credit Reporting Act (15 U.S.C. 1681s(b)(1)(C)) (as amended by section 212(c) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking the period at the end and inserting a semicolon.

(7) Section 704(a)(1)(C) of the Equal Credit Opportunity Act (15 U.S.C. 1691c(b)(1)(C)) (as amended by section 212(d) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking the period at the end and inserting a semicolon.

15 USC 1692l.

(8) Section 814(b)(1)(C) of the Fair Debt Collection Practices Act (15 U.S.C. 1691c(b)(1)(C)) (as amended by section 212(e) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking the period at the end and inserting a semicolon.

(9) Section 18(f)(2)(A) of the Federal Trade Commission Act (15 U.S.C. 57a(f)(2)(A)) (as amended by section 212(g)(2) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking “divisions” and inserting “division”.

(10) Section 6 of the International Banking Act of 1978 (12 U.S.C. 3104), as in effect on the day before the effective date of the amendment made by section 214(a)(3) of the Federal



Deposit Insurance Corporation Improvement Act of 1991, is amended by striking subsection (c).

(11) Section 6(c) of the International Banking Act of 1978 (as added by section 214(a)(3) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended—

12 USC 3104.

(A) in paragraph (1)—

(i) by inserting “domestic retail” before “deposit accounts”; and

(ii) by striking “\$100,000,” and inserting “\$100,000 and requiring deposit insurance protection,”; and

(B) in paragraph (2)—

(i) by striking “Deposit” and inserting “Domestic retail deposit”; and

(ii) by inserting “that require deposit insurance protection” after “\$100,000”.

(12) Section 214(b) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by inserting closing quotation marks and a 2d period at the end.

12 USC 3105.

(13) Section 7(j) of the International Banking Act of 1978 (as added by section 214(b) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking “Supervisory committee” and inserting “Supervisory Committee”.

12 USC 3105.

(14) Section 215(a)(9) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by striking “United States Banks” and inserting “banks chartered in the United States”.

12 USC 3102  
note.

(15) Section 224 of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by inserting “of 1975” after “Disclosure Act”.

12 USC 2808.

(b) AMENDMENTS RELATING TO SUBTITLE C.—

(1) Section 232(b)(1) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended—

12 USC 1817,  
1834.

(A) by striking “(9), and (10)” and inserting “and (8)”; and

(B) by striking “(10), and (11)” and inserting “and (9)”.

(2) Section 233(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by striking “section 235” where such term appears in paragraphs (3) and (5) and inserting “section 234”.

12 USC 1834a.

(3) Section 7(d)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1817(d)(4)) (as added by section 233(c)(1) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking “section 235” and inserting “section 234”.

(c) AMENDMENTS RELATING TO SUBTITLE D.—

(1) Section 241(b) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by striking “section 42” and inserting “section 40”.

12 USC 1831q  
note.

(2) Subparagraphs (B) and (E) of section 11(d)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(2)) (as amended by section 241(c)(1) of the Federal Deposit Insurance Corporation Improvement Act of 1991) are each amended by striking “section 42” and inserting “section 40”.

(3) Section 202(h)(2) of the Housing Act of 1959 (12 U.S.C. 1701q(h)(2)) (as amended by section 241(c)(2) of the Federal

Deposit Insurance Corporation Improvement Act of 1991) is amended by striking "section 42" and inserting "section 40".

(d) AMENDMENTS RELATING TO SUBTITLE E.—Section 213(a)(2) of the Federal Credit Union Act (12 U.S.C. 1790b(a)) (as amended by section 251(b) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended—

(1) in subparagraph (A), by inserting "or" after "credit union"; and

(2) in subparagraph (B), by striking "or employee" and all that follows through the semicolon and inserting "committee member, or employee of any credit union";.

(e) AMENDMENTS RELATING TO SUBTITLE F.—

12 USC 4305.

(1) Section 266(e) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by striking "on or with any regularly scheduled mailing posted or delivered within 180 days after publication" and inserting "on or with the first regularly scheduled mailing sent after the end of the 6-month period beginning on the date of publication".

(2) Subtitle F of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by striking "Act" and inserting "subtitle"—

12 USC 4304.

12 USC 4306.

12 USC 4308.

12 USC 4309.

12 USC 4310.

12 USC 4311.

12 USC 4312.

12 USC 4313.

(A) each place such term appears in section 265;

(B) in section 267(a);

(C) the 1st place such term appears in section 267(c);

(D) each place such term appears in section 269(a)(1);

(E) each place such term appears in section 269(a)(3);

(F) the 1st place such term appears in section 269(a)(4);

(G) in section 269(b)(1);

(H) each place such term appears in section 269(b)(2);

(I) the 1st place such term appears in section 270(a);

(J) in section 270(b)(2);

(K) each place such term appears in section 270(c);

(L) each place such term appears in section 271(a);

(M) in paragraphs (1) and (2) of section 271(c);

(N) in subsections (d), (g), (h) of section 271;

(O) in paragraphs (1) and (2) of section 271(i);

(P) the 1st place such term appears in section 272(a);

(Q) in section 272(b);

(R) in section 273; and

(S) in the provision of section 274 which precedes paragraph (1) of such section.

(3) Section 270(b)(1) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by striking "this Act" and inserting "this subtitle".

(4) The heading of paragraph (1) of section 270(b) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by striking "ACT" and inserting "SUBTITLE".

**SEC. 1605. TECHNICAL CORRECTIONS RELATING TO TITLE III OF THE FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991.**

(a) AMENDMENTS RELATING TO SUBTITLE A.—

(1) Section 29 of the Federal Deposit Insurance Act (12 U.S.C. 1831f) (as amended by section 301(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended—

(A) in subsection (a), by striking "A insured" and inserting "An insured"; and

(B) in subsection (c), by striking "capitalized," and inserting "capitalized (but not well capitalized)."

(2) Section 7(b)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)) (as amended by section 302(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended—

(A) in subparagraph (D), by striking the comma after "members"; and

(B) by adding at the end the following new subparagraph:

"(H) BANK ENTERPRISE ACT REQUIREMENT.—The Corporation shall design the risk-based assessment system so that, insofar as the system bases assessments, directly or indirectly, on deposits, the portion of the deposits of any insured depository institution which are attributable to lifeline accounts established in accordance with the Bank Enterprise Act of 1991 shall be subject to assessment at a rate determined in accordance with such Act."

(3) Effective on the effective date of the amendment made by section 302(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991, section 232(a)(1) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 1834(a)(1)) by striking "7(b)(10)" and inserting "7(b)(2)(H)".

(4) The subsection which was added to section 10 of the Federal Deposit Insurance Act by section 302(d) of the Federal Deposit Insurance Corporation Improvement Act of 1991 and designated as subsection (f) is hereby redesignated as subsection (g).

12 USC 1820.

(5) Section 302(e) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended—

(A) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively; and

(B) by striking paragraph (1) and inserting the following new paragraphs:

12 USC 1817,  
1818.  
12 USC 1815.

"(1) in section 5(d)(3)(B)(i)—

"(A) by striking 'average assessment base' and inserting 'deposits'; and

"(B) by striking 'shall—' and all that follows through the period and inserting 'shall be treated as deposits which are insured by the Savings Association Insurance Fund.';

"(2) in section 5(d)(3)(B)(ii)—

"(A) by striking 'average assessment base' and inserting 'deposits'; and

"(B) by striking 'shall—' and all that follows through the period and inserting 'shall be treated as deposits which are insured by the Bank Insurance Fund.'"

(6) Effective on the effective date of the amendment made by section 302(e)(4) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (as so redesignated by paragraph ((5)(A) of this subsection), section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) (as amended by section 302(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by adding after paragraph (6) (as

transferred and so redesignated by section 1603(a)(3) of this title) the following new paragraph:

“(7) **COMMUNITY ENTERPRISE CREDITS.**—The Corporation shall allow a credit against any semiannual assessment to any insured depository institution which satisfies the requirements of the Community Enterprise Assessment Credit Board under section 233(a)(1) of the Bank Enterprise Act of 1991 in the amount determined by such Board by regulation.”

(7) Effective on the effective date of the amendment made by section 302(e)(4) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (as so redesignated by paragraph (5)(A) of this subsection), section 233 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 1834a) is amended—

(A) in subsection (a)(1)(A), by striking “7(d)(4)” and inserting “7(b)(7)”;

(B) in subsection (a)(3), by striking “7(d)(4)” and inserting “7(b)(7)”;

(C) in subsection (e)(2), by striking “made for purposes of the notification required under section 7(d)(1)(B)” and inserting “of the semiannual assessment to which such credit is applicable”.

(8) Section 24(e)(1)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1831a) (as added by section 303(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended to read as follows:

“(B) meets applicable consumer disclosure requirements with respect to such insurance.”.

(9) The subsection of section 18 of the Federal Deposit Insurance Act which was added by section 305(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991 and designated as subsection (o) (relating to periodic review of capital standards) is hereby redesignated as subsection (p).

(10) Section 22(h)(6)(B)(i) of the Federal Reserve Act (12 U.S.C. 375b) (as amended by section 306(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking “and” after the semicolon and inserting “or”.

(11) Section 8(t) of the Federal Deposit Insurance Act (12 U.S.C. 1818(t)) (as added by section 307 of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended—

(A) in paragraph (2)(B), by inserting “or institution-affiliated party” after “institution” each place such term appears;

(B) in paragraph (2)(C), by striking “institution’s” the 1st place such term appears; and

(C) in paragraph (5), by inserting “or institution-affiliated party” after “depository institution”.

(b) **AMENDMENTS RELATING TO SUBTITLE B.**—

(1) Section 7(b)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(6)) is amended—

(A) by striking subparagraph (D), as added by section 311(a)(2)(C) of the Federal Deposit Insurance Corporation Improvement Act of 1991; and

(B) by inserting after subparagraph (C) the following new subparagraph:

“(D) any liability of the insured depository institution which is not treated as an insured deposit pursuant to section 11(a)(8).”.

(2) Effective on the effective date of the amendment made by section 302(b) of the Federal Deposit Insurance Corporation Improvement Act of 1991, section 7(c) of the Federal Deposit Insurance Act (12 U.S.C. 1817(c)) (as amended by such section 302(b)) is amended—

(A) by adding at the end, the paragraph added to such section 7(c) (as in effect on the day before the effective date of such amendment) by section 313(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991;

(B) by redesignating such paragraph as paragraph (4); and

(C) in paragraph (4) (as so redesignated by subparagraph (B) of this paragraph), by striking “paragraph (1) or (2)” each place such term appears and inserting “paragraph (1)”.

(3) Section 202(d)(2) of the Federal Credit Union Act (12 U.S.C. 1782(d)(2)) (as amended by section 313(b) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended—

(A) in subparagraph (C)—

(i) by striking “insured depository institution” and inserting “insured credit union”;

(ii) by striking “or” after “subsection (b)(1)”;

(iii) by striking “Corporation” and inserting “Board”; and

(iv) by striking “assets of the institution” and inserting “assets of the credit union”;

(B) in subparagraph (D), by striking “Corporation” and inserting “Board”; and

(C) in subparagraph (E)—

(i) by striking “insured depository institution” and inserting “insured credit union”; and

(ii) by striking “if the institution” and inserting “if the credit union”.

(c) AMENDMENT TO THE HEADING OF TITLE III.—The heading of title III of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended to read as follows:

105 Stat. 2343.

### **“TITLE III—FEDERAL DEPOSIT INSURANCE REFORM”.**

#### **SEC. 1606. TECHNICAL CORRECTIONS RELATING TO TITLE IV OF THE FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVE- MENT ACT OF 1991.**

(a) AMENDMENT RELATING TO SUBTITLE A.—Section 402(14)(B) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by striking “Federal commodities law” and inserting “Federal law”. 12 USC 4402.

(b) AMENDMENT RELATING TO SUBTITLE B.—Section 1112(f)(2) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3412(f)(2)) (as amended by section 411(1) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended—

(1) by inserting a comma before “for civil actions under section 951”; and

(2) by inserting a comma after “United States Code”.

(c) AMENDMENT RELATING TO SUBTITLE C.—Section 11(d)(4)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(4)(A)) (as amended by section 416 of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking “determinations” and inserting “determination”.

12 USC 1818  
and note.

(d) AMENDMENT RELATING TO SUBTITLE D.—The heading for section 422 of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by striking “BOARD” and inserting “ADVISORY COMMITTEE”.

105 Stat. 2379.

(e) AMENDMENT RELATING TO SUBTITLE F.—Section 431(a)(2) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by inserting “(hereafter in this subsection referred to as the ‘Secretary’)” after “Secretary of the Treasury”.

(f) AMENDMENTS RELATING TO SUBTITLE G.—

(1) Section 5(c)(2)(B)(iii) of the Home Owners’ Loan Act (12 U.S.C. 1464(c)(2)(B)) is amended to read as follows:

“(iii) MONITORING.—If the Director permits any increased authority pursuant to clause (ii), the Director shall closely monitor the Federal savings association’s condition and lending activities to ensure that the savings association carries out all authority under this paragraph in a safe and sound manner and complies with this subparagraph and all relevant laws and regulations.”.

(2) Section 5(c)(2)(C) of the Home Owners’ Loan Act (12 U.S.C. 1464(c)(2)(C)) is amended by striking the comma after “including”.

(3) The last sentence of section 5(c)(2)(D) of the Home Owners’ Loan Act (12 U.S.C. 1464(c)(2)(B)) (as amended by section 441(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by inserting before the period the following: “, except that amounts in excess of 30 percent of the assets may be invested only in loans which are made by the association directly to the original obligor and with respect to which the association does not pay any finder, referral, or other fee, directly or indirectly, to any third party”.

12 USC 1467a.

(4) Section 437 of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended—

(A) by striking “Section 10(m)(1)(B)” and inserting “(a) IN GENERAL.—Section 10(m)(1)(B)”; and

(B) by adding at the end the following new subsection:  
“(b) TECHNICAL AND CONFORMING AMENDMENTS.—

12 USC 1467a.

“(1) Section 10(m)(1)(A) of the Home Owners’ Loan Act (12 U.S.C. 1467(m)(1)(A)) is amended by striking “70 percent” and inserting “65 percent”.

12 USC 1467a.

“(2) The first sentence of section 10(m)(3)(D) of the Home Owners’ Loan Act (12 U.S.C. 1467(m)(3)(D)) is amended by striking “for the preceding 2-year period” and inserting “on a monthly average basis in 9 out of the preceding 12 months”.

(g) AMENDMENTS RELATING TO SUBTITLE I.—

12 USC 1821  
note.

(1) Section 451(b)(3) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by striking “11(i)” and inserting “3(i)(2)”.

(2) Section 3(i)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(i)(2)) is amended by striking "11(i)" and inserting "11(n)".

**(h) AMENDMENTS RELATING TO SUBTITLE K.—**

(1) Section 461 of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by inserting "of 12 USC 1843. 1956" after "Bank Holding Company Act".

(2) The heading of subtitle K of title IV of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended to read as follows: 105 Stat. 2384.

## **"Subtitle K—Acquisition of Insolvent Savings Associations".**

**(i) AMENDMENTS RELATING TO SUBTITLE M.—**

(1) Section 7(a) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) is amended by redesignating the paragraph (9) which was added to such section by section 474 of the Federal Deposit Insurance Corporation Improvement Act of 1991 as paragraph (10).

(2) Section 475(c) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended to read as follows: 12 USC 1828 note.

"(c) EFFECTIVE DATE.—This section shall apply after the end of the 60-day period beginning on the date of the enactment of this Act."

(3) Section 477 of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by striking "Federal Reserve Board" each place such term appears and inserting "Board of Governors of the Federal Reserve System". 12 USC 251.

### **SEC. 1607. TECHNICAL CORRECTIONS RELATING TO TITLE V OF THE FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991.**

(a) AMENDMENT RELATING TO SECTION 501.—Section 5(d)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1815(d)(3)) (as amended by section 501(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by adding at the end the following new subparagraph:

"(K) BOARD DEFINED.—For purposes of this paragraph, the term 'Board' (other than when such term appears in connection with a reference to the Board of Directors) means the Board of Governors of the Federal Reserve System."

(b) AMENDMENT RELATING TO SECTION 502.—Section 10 of the Home Owners' Loan Act (12 U.S.C. 1467a) is amended by redesignating subsection (t) (as added by section 502(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991) as subsection (s).

### **SEC. 1608. FEDERAL HOUSING FINANCE BOARD PRACTICE REQUIRED TO CONFORM TO CONGRESSIONAL INTENT AND EXISTING LAW.**

Section 2A(b)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1422a(b)(2)) is amended by adding at the end the following new subparagraph:

"(D) CLARIFICATION OF STATUS.—

“(i) IN GENERAL.—The directors appointed pursuant to paragraph (1)(B) shall serve on a full-time basis after December 31, 1993.

“(ii) RULE OF CONSTRUCTION.—Clause (i) shall not be construed as implying that any other position may be filled or held on a less than full-time basis.”.

12 USC 191  
note.

#### **SEC. 1609. EFFECTIVE DATE.**

(a) IN GENERAL.—Except as provided in subsection (b) or any other provision of this subtitle, the amendments made by this subtitle to the Federal Deposit Insurance Corporation Improvement Act of 1991, the Federal Deposit Insurance Act, and any other law shall take effect as if such amendments had been included in the Federal Deposit Insurance Corporation Improvement Act of 1991 as of the date of the enactment of such Act.

(b) EFFECTIVE DATE OF CERTAIN AMENDMENTS.—In the case of any amendment made by this subtitle to any provision of law added or amended by the Federal Deposit Insurance Corporation Improvement Act of 1991 effective after December 19, 1992, the amendment made by this subtitle shall take effect on the effective date of the amendment made by the Federal Deposit Insurance Corporation Improvement Act of 1991.

### **Subtitle B—Resolution Trust Corporation**

#### **SEC. 1611. TECHNICAL CORRECTIONS RELATING TO TITLE I OF THE RESOLUTION TRUST CORPORATION REFINANCING, RESTRUCTURING, AND IMPROVEMENT ACT OF 1991.**

(a) AMENDMENT RELATING TO SECTION 101.—Section 21A(i)(3) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(i)(3)) is amended by inserting a comma after “necessary” and after “billion”.

(b) AMENDMENTS RELATING TO SECTION 102.—

(1) Section 11(c)(6)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)(6)(B)) (as amended by section 102 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended by striking “section 5(d)(2)(C)” and inserting “subparagraph (C) or (F) of section 5(d)(2)”.

(2) Effective 1 year after the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, section 11(c)(6)(B) of the Federal Deposit Insurance Act (as amended by paragraph (1) of this subsection) is amended by striking “subparagraph (C) or (F) of section 5(d)(2)” and inserting “subparagraph (A) or (C) of section 5(d)(2)”.

(c) AMENDMENT RELATING TO SECTION 104.—Section 21(e)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1441(e)(2)) is amended by striking “Thrift Depositor Protection Refinance” and inserting “Refinancing, Restructuring, and Improvement”.

(d) AMENDMENTS RELATING TO SECTION 106.—

(1) Section 21A(k)(7) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)(7)) (as amended by section 106(a) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended by striking “quarter ending on the last day of the month ending before the month in which such report is required to be submitted” and inserting “preceding calendar quarter”.



(2) Section 21A(k)(10) of the Federal Home Loan Bank Board (12 U.S.C. 1441a(k)(10)) (as added by section 106(c) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended by inserting "Thrift Depositor Protection" before "Oversight Board" each place such term appears.

(3) Section 21A(k)(11) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)(11)) (as amended by section 106(d) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended—

(A) in subparagraph (A), by inserting "Thrift Depositor Protection" before "Oversight Board"; and

(B) in subparagraph (B)—

(i) by striking "an employee" and inserting "employees"; and

(ii) by striking "Government" and inserting "General".

(4) Section 106(e)(2) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 is amended by striking "annual reports" and inserting "supplemental unaudited financial statements".

12 USC 1441a  
note.

**SEC. 1612. TECHNICAL CORRECTIONS RELATING TO TITLE II OF THE RESOLUTION TRUST CORPORATION REFINANCING, RESTRUCTURING, AND IMPROVEMENT ACT OF 1991.**

Section 21A(b)(8)(B)(i) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(8)(B)(i)) is amended by striking "Thrift Depositor Protection Refinance" each place such term appears and inserting "Refinancing, Restructuring, and Improvement".

**SEC. 1613. TECHNICAL CORRECTIONS RELATING TO TITLE III OF THE RESOLUTION TRUST CORPORATION REFINANCING, RESTRUCTURING, AND IMPROVEMENT ACT OF 1991.**

(a) AMENDMENT RELATING TO SECTION 302.—

(1) Section 302 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 is amended by striking subsection (c).

12 USC 1441a.

(2) Section 21A(k)(6)(A)(vii) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)(6)(A)(vii)) is amended by inserting "Thrift Depositor Protection" before "Oversight Board's".

(3) Section 21A(q) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(q)) (as added by section 251(c) of the Federal Deposit Insurance Corporation Improvement Act of 1991 and transferred by section 1614(a)(5)(E) of this subtitle) is amended by inserting "Thrift Depositor Protection" before "Oversight Board" each place such term appears.

(4) The heading for section 21A(a)(6) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(6)) is amended by striking "OVERSIGHT" and inserting "THRIFT DEPOSITOR PROTECTION OVERSIGHT".

(5) The heading for paragraph (8) of subsection (n) of section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) (as such subsection has been redesignated by section 314(3) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended by inserting "THRIFT DEPOSITOR PROTECTION" before "OVERSIGHT".

(6) The heading for section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by inserting "THRIFT DEPOSITOR PROTECTION" before "OVERSIGHT BOARD".

(7) The headings for sections 21B(c)(8) and 21B(j)(2) of the Federal Home Loan Act (12 U.S.C. 1441b(c)(8) and 1441B(j)(2)) are each amended by inserting "THRIFT DEPOSITOR PROTECTION" before "OVERSIGHT".

(8) The heading for section 21A(q) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(q)) (as added by section 251(c) of the Federal Deposit Insurance Corporation Improvement Act of 1991 and transferred by section 1614(a)(5)(E) of this subtitle) is amended by inserting "THRIFT DEPOSITOR PROTECTION" before "OVERSIGHT".

(9) The heading for section 21B(k)(7) of the Federal Home Loan Bank Act (12 U.S.C. 1441b(k)(7)) is amended by striking "OVERSIGHT" and inserting "THRIFT DEPOSITOR PROTECTION OVERSIGHT".

(b) AMENDMENTS RELATING TO SECTION 303.—

12 USC 1441a.

(1) Section 303(2) of the Resolution Trust Corporation Refinancing, Restructuring and Improvement Act of 1991 is amended by striking the comma after "Corporation)".

(2) Section 21A(a)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(2)) (as amended by section 303(2) of the Resolution Trust Corporation Refinancing, Restructuring and Improvement Act of 1991 and the amendment made by paragraph (1) of this subsection) is amended by striking the 2d period after "Act".

(c) AMENDMENTS RELATING TO SECTION 305.—

(1) Section 21A(a)(6)(C) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(6)(C)) is amended by striking "paragraph (8) of this subsection" and all that follows through the period at the end and inserting "paragraph (8)".

(2) Section 21A(a) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)) is amended by redesignating paragraph (15) as paragraph (16) and inserting after paragraph (14) the following new paragraph:

"(15) REPORTS ON ANY MODIFICATION TO ANY STRATEGY, POLICY, OR GOAL.—If, pursuant to paragraph (6)(A), the Thrift Depositor Protection Oversight Board requires the Corporation to modify any overall strategy, policy, or goal, such board shall submit, before the end of the 30-day period beginning on the date on which the board first notifies the Corporation of such requirement, to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives an explanation of the grounds which the board determined justified the review and the reasons why the modification is necessary to satisfy any such ground."

(d) AMENDMENTS RELATING TO SECTION 307.—

(1) Section 21A(a)(10) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(10)) is amended—

(A) by striking "4" and inserting "6";

(B) by adding at the end the following new sentence: "The Thrift Depositor Protection Oversight Board shall maintain a transcript of the board's open meetings."; and

(C) in the heading, by striking "QUARTERLY" and inserting "OPEN".

(2) Section 21A(c)(10) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(10)) is amended by striking the last sentence (as added by section 307(2) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991).

(e) AMENDMENT RELATING TO SECTION 311.—Section 21A(b)(8)(A) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(8)(A)) (as amended by section 311 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended by striking “IN GENERAL.—” and all that follows through the 1st comma and inserting “IN GENERAL.—Except for the chief executive officer of the Corporation.”

(f) AMENDMENTS RELATING TO SECTION 314.—

(1) Section 21A(a)(8) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(8)) (as amended by section 314(1)(B) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended by striking “AUTHORITY.—IN GENERAL.—The Corporation”, and inserting “AUTHORITY.—The Corporation”.

(2) Section 21A(o)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(o)(2)) (as amended by section 314(5) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended by striking “includes” and all that follows through “any officer or employee of the Federal Deposit” and inserting “includes any officer or employee of the Federal Deposit”.

(g) AMENDMENT RELATING TO SECTION 316.—Section 21A(l)(3)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(l)(3)(B)) (as amended by section 316 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended by striking “for that party of the filing” and inserting “for that party or the filing”.

(h) ADDITIONAL TECHNICAL CORRECTIONS.—

(1) Paragraph (9) of section 21A(b) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(9)) (as so redesignated by section 310 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended—

(A) in subparagraph (G) (as so redesignated by section 314(2)(B)(i) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991), by striking “(11)(A)(iv)” and inserting “(10)(A)(iv)”; and

(B) in subparagraph (I) (as so redesignated by section 314(2)(B)(i) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991), by striking “through its Board of Directors”.

(2) Paragraph (10) of section 21A(b) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(10)) (as so redesignated by section 310 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended—

(A) in subparagraph (A), by striking “(10)” and inserting “(9)”; and

(B) in subparagraph (A)(i), by striking “(12)” and inserting “(11)”.

(3) Paragraph (11)(E)(i) of section 21A(b) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(11)(E)(i)) (as so redesignated by section 310 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is

amended by striking "its" and inserting "the chief executive officer's".

(4) Section 21A(c)(7) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(7)) is amended by striking "(b)(11)(A)" and inserting "(b)(10)(A)".

(5) Section 21A(d)(1)(B)(ii) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(d)(1)(B)(ii)) is amended by striking "paragraph (2)" and inserting "paragraph (3)".

(6) Section 21A(k)(3)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)(3)(B)) is amended by striking "subsection (b)(11)(B)" and inserting "subsection (b)(10)(B)".

**SEC. 1614. TECHNICAL CORRECTIONS RELATING TO TITLE IV OF THE RESOLUTION TRUST CORPORATION REFINANCING, RESTRUCTURING, AND IMPROVEMENT ACT OF 1991.**

**(a) AMENDMENTS RELATING TO INCORRECT DESIGNATIONS OF NEW SUBSECTIONS AND PARAGRAPHS.—**

12 USC 1441a. (1) Section 401 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 is amended by striking "after subsection (s) (as added by section 227 of this Act)" and inserting "after subsection (p) (as so redesignated by section 314(3) of this Act)".

12 USC 1441a. (2) Section 402(a) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 is amended by striking "301" and inserting "401".

12 USC 1441a. (3) Section 403 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 is amended by striking "section 302" and inserting "section 402".

12 USC 1441a. (4) Section 404 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 is amended by striking "section 303" and inserting "section 403".

(5) Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended—

(A) by redesignating subsection (t) (as added by section 401 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) as subsection (r);

(B) by redesignating subsection (u) (as added by section 402(a) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) as subsection (s);

(C) by redesignating subsection (v) (as added by section 403 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) as subsection (t);

(D) by redesignating subsection (w) (as added by section 404 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) as subsection (u); and

(E) effective as of the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, by transferring and inserting subsection (q) (as added by section 251(c) of the Federal Deposit Insurance Corporation Improvement Act of 1991) after subsection (p).

(6) For purposes of applying paragraph (13) of section 21A(b) of the Federal Home Loan Bank Act, the amendment made by section 405 of the Resolution Trust Corporation

12 USC 1441a  
note.

Refinancing, Restructuring, and Improvement Act of 1991, shall be considered to have been executed before the redesignation of such paragraph by section 310 of such Act.

(7) Effective as of the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991—

(A) section 471 of such Act is amended by striking “Home Owners’ Loan Act” and inserting “Federal Home Loan Bank Act”; and 12 USC 1441a.

(B) subsection (q) of section 21A of the Federal Home Loan Bank Act (as added by section 471 of the Federal Deposit Insurance Corporation Improvement Act of 1991, as amended by subparagraph (A) of this paragraph) is hereby redesignated as subsection (v). 12 USC 1441a.

(b) OTHER TECHNICAL CORRECTIONS RELATING TO AMENDMENTS MADE BY TITLE IV.—

(1) Subsection (t)(1) of the Federal Home Loan Bank Act (12 U.S.C. 1441a) (as added by section 403 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 and redesignated by subsection (a)(5) of this section) is amended by striking “minority interim capital assistance program established by the Oversight Board by regulation pursuant to the strategic plan under subsection (a)” and inserting “the minority capital assistance program established under subsection (u)(1)”.

(2) Subsection (u)(1) of the Federal Home Loan Bank Act (12 U.S.C. 1441a) (as added by section 404 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 and redesignated by subsection (a)(5) of this section) is amended by striking “established by the Oversight Board by regulation pursuant to the strategic plan under subsection (a)” and inserting “administered by the Corporation pursuant to the policy statement entitled the ‘Interim Statement of Policy Regarding Resolutions of Minority-Owned Depository Institutions’ adopted by the Corporation on January 30, 1990”.

(3) Subsections (t)(3)(B) and (u)(5)(B) of section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) (as added by sections 403 and 404, respectively, of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 and redesignated by subsection (a)(5) of this section) are each amended by striking “section 13(c)(8)” and inserting “section 13(f)(8)(B)”.

(4) Subsection (q) of section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) (as added by section 251(c) of the Federal Deposit Insurance Corporation Improvement Act of 1991 and transferred by subsection (a)(5) of this section) is amended by inserting “Thrift Depositor Protection” before “Oversight Board” each place such term appears.

**SEC. 1615. TECHNICAL CORRECTIONS RELATING TO TITLE V OF THE RESOLUTION TRUST CORPORATION REFINANCING, RESTRUCTURING, AND IMPROVEMENT ACT OF 1991.**

(a) AMENDMENTS RELATING TO SECTION 501.—

(1) For purposes of applying paragraph (9) of section 21A(b) of the Federal Home Loan Bank Act, the amendment made by section 501(a)(1) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 shall 12 USC 1441a note.

be considered to have been executed before the redesignation of subparagraph (K) of such paragraph by section 314(2)(B) of such Act and the redesignation of such paragraph by section 310 of such Act.

(2) Section 21A(c)(8)(B)(ii) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(8)(B)(ii)) (as added by section 501(a)(2)(B) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended by striking "subchapter A" and inserting "subchapter B".

(b) AMENDMENT TO SECTION HEADING.—The heading for section 501 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 is amended to read as follows:

105 Stat. 1777.

**"SEC. 501. CREDIT ENHANCEMENT."**

**SEC. 1616. TECHNICAL CORRECTIONS RELATING TO TITLE VI OF THE RESOLUTION TRUST CORPORATION REFINANCING, RESTRUCTURING, AND IMPROVEMENT ACT OF 1991.**

(a) AMENDMENTS RELATING TO SECTION 607.—Section 21A(c)(3)(E) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(3)(E)) (as amended by section 607 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended—

(1) in clause (i)(I), by striking "building property structure in which the units are located: *Provided, That*" and inserting "property in which the units are located; and";

(2) in clause (i)(II)—

(A) by striking "shall be made available for occupancy" the 1st time such term appears;

(B) by inserting "(including very low-income families taken into account for purposes of subclause (I))" after "very low-income families"; and

(C) by striking "building or structure" and inserting "property"; and

(3) in clause (ii)(II)—

(A) by striking "building property structure" each place such term appears and inserting "property"; and

(B) by inserting "(including very low-income families taken into account for purposes of subdivision (a) of this subclause)" after "very low-income families" where such term appears in subdivision (b) of such clause.

(b) REPEAL OF DUPLICATE PROVISION.—Title VI of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 is amended by striking section 611.

12 USC 1441a.

**SEC. 1617. REPEAL OF TITLE CONSISTING OF AMENDMENTS DUPLICATED IN THE FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991.**

(a) IN GENERAL.—Title VII of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 is hereby repealed.

(b) EFFECT OF REPEAL.—No amendments made by title VII of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 shall be deemed to have taken effect before the date of the enactment of this Act and the provisions of law amended by title VII shall continue in effect as if no such amendments had been made by such title.

12 USC 3345,  
3348.

12 USC 3345  
note.

**SEC. 1618. EFFECTIVE DATE.**12 USC 1441  
note.

Except as otherwise provided by a specific provision of this subtitle, the amendments made by this subtitle to the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 and the Federal Home Loan Bank Act shall take effect as if such amendments had been included in the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 as of the date of the enactment of such Act.

Approved October 28, 1992.

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**LEGISLATIVE HISTORY—H.R. 5334 (S. 3031):**

HOUSE REPORTS: Nos. 102-760 (Comm. on Banking, Finance and Urban Affairs) and 102-1017 (Comm. of Conference).

SENATE REPORTS: No. 102-332 accompanying S. 3031 (Comm. on Banking, Housing, and Urban Affairs).

CONGRESSIONAL RECORD, Vol. 138 (1992):

Aug. 5, considered and passed House.

Sept. 10, S. 3031 considered and passed Senate; H.R. 5334, amended, passed in lieu.

Oct. 5, House agreed to conference report.

Oct. 8, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):

Oct. 28, Presidential statement.

Public Law 102-551  
102d Congress

An Act

Oct. 28, 1992  
[H.R. 5954]

An Act to amend the Food, Agriculture, Conservation, and Trade Act of 1990 to improve health care services and educational services through telecommunications, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. IMPROVEMENT OF HEALTH CARE SERVICES AND EDUCATIONAL SERVICES THROUGH TELECOMMUNICATIONS.**

(a) **PROGRAMS FOR CONSORTIA IN QUALIFIED LOCAL EXCHANGE SERVICE AREAS.**—Chapter 1 of subtitle D of title XXIII of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 950aaa et seq.) is amended by adding at the end the following new section:

Urban and rural  
areas.  
7 USC 950aaa-5.

**“SEC. 2335A. SPECIAL HEALTH CARE AND DISTANCE LEARNING PROGRAM FOR QUALIFIED SERVICE AREAS.**

“(a) **DEVELOPMENT OF CONSORTIA.**—The Administrator shall encourage the development of consortia to provide health care services or educational services through telecommunications in rural areas of a qualified local exchange carrier service area. Each consortium shall be composed of—

“(1) a tertiary care facility, rural referral center, medical teaching institution, or educational institution accredited by the State;

“(2) any number of institutions that provide health care services or educational services; and

“(3) not less than three rural hospitals, clinics, community health centers, migrant health centers, local health departments, or similar facilities, or not less than three educational institutions accredited by the State.

**“(b) SPECIAL PROGRAM FOR QUALIFIED LOCAL EXCHANGE CARRIER SERVICE AREAS.**—

“(1) **REGULATIONS AND SPECIAL PROGRAM.**—Through regulations issued not later than 190 days after the date of enactment of this section, the Administrator shall establish a program under which qualified consortia described in subsection (a) located within qualified local exchange carrier service areas may apply to the Administrator for grants to support the costs of activities involved in the sending and receiving of information that will improve the delivery of health care services or educational services through telecommunications in rural areas.

**“(2) SELECTION OF GRANTEES.**—The Administrator shall—

“(A) establish application procedures;

“(B) review the applications submitted under this subsection in a timely manner; and

“(C) make grants in accordance with this subsection and with regulations issued by the Administrator.

**“(3) PRIORITIES.**—



"(A) IN GENERAL.—Priority for grants under this subsection shall be accorded applicants whose applications and plans demonstrate—

"(i) the greatest likelihood of successfully and efficiently carrying out the activities described in the application and the plan of the applicant;

"(ii) the greatest likelihood of improving health care services or educational services in the rural areas;

"(iii) coordination between local exchange carriers to carry out activities as described in the application; and

"(iv) unconditional financial support from each affected local community.

"(B) GEOGRAPHIC DIVERSITY.—In awarding grants, the Administrator shall seek to achieve geographic diversity among the grantees.

"(4) MAXIMUM AMOUNT OF GRANT.—The amount of each grant awarded under this subsection shall not exceed \$1,500,000.

"(5) DISTRIBUTION OF GRANTS.—Grants to a qualified consortium under this subsection shall be disbursed over a period of not more than 3 years.

"(6) USE OF FUNDS.—

"(A) IN GENERAL.—Grants under this subsection may be used to support the costs of activities involving the sending and receiving of information to improve health care services or educational services in rural areas, including—

"(i) in the case of grants to improve health care services—

"(I) consultations between health care providers;

"(II) transmitting and analyzing x rays, lab slides, and other images;

"(III) developing and evaluating automated claims processing, and transmitting automated patient records; and

"(IV) developing innovative health professions education programs;

"(ii) in the case of grants to improve educational services—

"(I) developing innovative education programs and expanding curriculum offerings;

"(II) providing continuing education to all members of the community;

"(III) providing means for libraries of educational institutions or public libraries to share resources;

"(IV) providing the public with access to State and national data bases;

"(V) conducting town meetings; and

"(VI) covering meetings of agencies of State government; and

"(iii) in all cases—

"(I) transmitting financial information; and

"(II) such other related activities as the Administrator considers to be consistent with the purposes of this section.

"(7) LIMITATION ON ACQUISITION OF INTERACTIVE TELECOMMUNICATIONS EQUIPMENT.—Not more than 40 percent of the amount of any grant made under this subsection may be used to acquire interactive telecommunications end user equipment.

"(8) LIMITATION ON USE OF CONSULTANTS.—Not more than 5 percent of the amount of any grant made under this subsection may be used to employ or contract with any consultant or similar person.

"(9) PROHIBITIONS.—Grants made under this subsection may not be used, in whole or in part, to establish or operate a telecommunications network or to provide any telecommunications services for hire.

"(c) EXPEDITED TELEPHONE LOANS.—Local exchange carriers located in a qualified local exchange carrier service area shall be eligible to apply for expedited loans under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.). The Administrator shall respond to a completed application for such a loan no later than 45 days after receipt. The Administrator shall notify the applicant in writing of its decision regarding each such application.

"(d) DEFINITION.—As used in this section, the term 'qualified local exchange carrier service area' means the service area of a local telephone exchange carrier in which the local exchange carrier has a plan approved by the Administrator for upgrading and modernizing the rural telecommunications infrastructure of the service area. The plan shall—

"(1) provide for eliminating party line service within the local exchange carrier service area and for other improvements and modernization in rural telephone service;

"(2) provide for the enhancement of the availability of educational opportunities or the availability of improved medical care through telecommunications;

"(3) encourage and improve the use of telecommunications, computer networks, and related advanced technologies to provide educational and medical benefits to people in rural areas; and

"(4) provide for the achievement of the goals described in subparagraphs (A) through (C) not later than 10 years after the approval of the plan."

(b) EXTENSION OF CHAPTER 1.—Notwithstanding any other provision of law, chapter 1 of subtitle D of title XXIII of the Food, Agriculture, Conservation and Trade Act of 1990 (7 U.S.C. 950aaa et seq.), including the amendments made by this section, shall be effective until September 30, 1997.

(c) ALLOCATION OF FUNDS.—Section 2335(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 950aaa-4) is amended by adding at the end the following new paragraph:

"(8) USE OF APPROPRIATED FUNDS.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Administrator shall make available—

"(i) 50 percent of the funds made available pursuant to paragraph (3) for grants for end users that are consortia participating in the special program established under section 2335A; and

Termination  
date.  
7 USC 950aaa  
note.

“(ii) 50 percent of the funds made available pursuant to paragraph (3) to provide funds for the programs, and end users participating in the programs, authorized by sections 2331 through 2335.

“(B) RELEASE OF FUNDS.—Not earlier than April 1 and not later than May 1 of each year, the Administrator shall make such funds described in subparagraph (A) as remain unobligated, available for any purpose described in subparagraph (A).”

(d) EFFECT OF AMENDMENTS.—The amendments made by this section shall not apply to funds appropriated for fiscal year 1993 to carry out subtitle D of title XXIII of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 950aaa et seq.) or require the revision of any regulation proposed to carry out such subtitle during fiscal year 1993.

7 USC 950aaa-4  
note.

Approved October 28, 1992.

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**LEGISLATIVE HISTORY—H.R. 5954:**

HOUSE REPORTS: No. 102-943 (Comm. on Agriculture).  
CONGRESSIONAL RECORD, Vol. 138 (1992):

Sept. 29, considered and passed House.

Oct. 5, considered and passed Senate, amended. House concurred in Senate amendment.

Public Law 102-552  
102d Congress

An Act

Oct. 28, 1992  
[H.R. 6125]

Farm Credit  
Banks and  
Associations  
Safety and  
Soundness Act  
of 1992.  
12 USC 2001  
note.

To enhance the financial safety and soundness of the banks and associations of the Farm Credit System, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Farm Credit Banks and Associations Safety and Soundness Act of 1992”.

(b) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. References to the Farm Credit Act of 1971.

**TITLE I—IMPROVEMENTS TO FARM CREDIT SYSTEM SAFETY AND SOUNDNESS**

- Sec. 101. Definition of permanent capital.
- Sec. 102. Qualifications of Farm Credit Administration Board members.

**TITLE II—FARM CREDIT SYSTEM INSURANCE CORPORATION**

- Sec. 201. Farm Credit System Insurance Corporation.
- Sec. 202. Statutory successor to Assistance Board agreements.
- Sec. 203. Use of Farm Credit Administration personnel.
- Sec. 204. GAO reports on risk-based insurance premiums, access to association capital, supplemental premiums, and consolidation.

**TITLE III—REPAYMENT OF FARM CREDIT SYSTEM DEBT OBLIGATIONS**

- Sec. 301. Capital preservation.
- Sec. 302. Preferred stock.
- Sec. 303. Systemwide repayment obligation.
- Sec. 304. Repayment of Treasury-paid interest.
- Sec. 305. Transfer of obligations from associations to banks; other matters.
- Sec. 306. Defaults.
- Sec. 307. Authority of Financial Assistance Corporation.
- Sec. 308. Technical amendments.

**TITLE IV—CLARIFICATION OF CERTAIN AUTHORITIES**

- Sec. 401. Clarification of the status and powers of certain institutions of the Farm Credit System.

**TITLE V—MISCELLANEOUS**

- Sec. 501. Valuation reserves of production credit associations.
- Sec. 502. Risk management participation authority.
- Sec. 503. Equity voting for one director of each bank for cooperatives.
- Sec. 504. Technical amendment.
- Sec. 505. Expansion of water and sewer lending authority of banks for cooperatives.
- Sec. 506. Eligibility to borrow from a bank for cooperatives.
- Sec. 507. Non-voting representative on board of Funding Corporation.
- Sec. 508. Repeal of prohibition against guarantee of certain instruments of indebtedness.
- Sec. 509. Compensation of bank directors.
- Sec. 510. Clarification of treatment of Farm Credit Administration operating expenses.
- Sec. 511. Approval of competitive charters.
- Sec. 512. Examinations.
- Sec. 513. Authority to examine System institutions.

Sec. 514. Financial disclosure and conflict of interest reporting by directors, officers, and employees of Farm Credit System institutions.

Sec. 515. One-time EFAP assistance.

Sec. 516. Technical corrections.

## SEC. 2. REFERENCES TO THE FARM CREDIT ACT OF 1971.

Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.), except to the extent otherwise provided.

# TITLE I—IMPROVEMENTS TO FARM CREDIT SYSTEM SAFETY AND SOUNDNESS

## SEC. 101. DEFINITION OF PERMANENT CAPITAL.

Paragraph (1) of section 4.3A(a) (12 U.S.C. 2154a(a)(1)) is amended to read as follows:

“(1) PERMANENT CAPITAL.—The term ‘permanent capital’ means—

“(A) current year retained earnings;

“(B) allocated and unallocated earnings (which, in the case of earnings allocated in any form by a System bank to any association or other recipient and retained by the bank, shall be considered, in whole or in part, permanent capital of the bank or of any such association or other recipient as provided under an agreement between the bank and each such association or other recipient);

“(C) all surplus (less allowances for losses);

“(D) stock issued by a System institution, except—  
“(i) stock that may be retired by the holder of the stock on repayment of the holder’s loan, or otherwise at the option or request of the holder; or

“(ii) stock that is protected under section 4.9A or is otherwise not at risk; and

“(E) any other debt or equity instruments or other accounts that the Farm Credit Administration determines appropriate to be considered permanent capital.”.

## SEC. 102. QUALIFICATIONS OF FARM CREDIT ADMINISTRATION BOARD MEMBERS.

Section 5.8 (12 U.S.C. 2242) is amended by adding at the end the following new subsection:

“(e) The President shall appoint members of the Board who— President.

“(1) are experienced or knowledgeable in agricultural economics and financial reporting and disclosure;

“(2) are experienced or knowledgeable in the regulation of financial entities; or

“(3) have a strong financial, legal, or regulatory background.”.

## TITLE II—FARM CREDIT SYSTEM INSURANCE CORPORATION

### SEC. 201. FARM CREDIT SYSTEM INSURANCE CORPORATION.

(a) IN GENERAL.—Section 5.53 (12 U.S.C. 2277a-2) is amended to read as follows:

#### “SEC. 5.53. BOARD OF DIRECTORS.

##### “(a) IN GENERAL.—

“(1) ESTABLISHMENT.—The management of the Corporation shall be vested in a Board of Directors (referred to in this section as the ‘Board’). The Board shall establish policies for the Corporation. The Board shall provide for the performance of all the powers and duties vested in the Corporation.

President.

“(2) APPOINTMENT.—The Board shall consist of three members, who shall be citizens of the United States and broadly representative of the public interest. Members of the Board shall be appointed by the President, by and with the advice and consent of the Senate. Not more than two members of the Board shall be members of the same political party.

President.

“(3) CHAIRPERSON.—Of the persons appointed to the Board, one shall be designated by the President to serve as Chairperson of the Board for the duration of the term of the member.

“(4) POSTEMPLOYMENT PROHIBITION.—A member of the Board shall be ineligible during the time the member is in office and for 2 years thereafter to hold any office, position, or employment in any institution of the Farm Credit System.

##### “(b) TERM OF OFFICE.—

“(1) IN GENERAL.—The term of office of each member of the Board shall be 6 years, except that the terms of the two members, other than the Chairperson, first appointed under subsection (a) shall expire, one on the expiration of 2 years after the date of appointment, and one on the expiration of 4 years after the date of appointment.

“(2) SUCCESSION.—Members of the Board shall not be appointed to succeed themselves, except that the members first appointed under subsection (a) for a term of less than 6 years may be reappointed for a full 6-year term and members appointed to fill unexpired terms of 3 years or less may be reappointed for a full 6-year term.

“(3) VACANCIES.—Any vacancy shall be filled for the unexpired term on like appointment. Any member of the Board shall continue to serve as a member after the expiration of the term of the member until a successor has been appointed and qualified.

##### “(c) ORGANIZATION.—

“(1) OATH.—Each member of the Board, within 15 days after notice of appointment, shall subscribe to the oath of office.

“(2) QUORUM.—The Board may transact business if a vacancy exists, if a quorum is present. A quorum shall consist of two members of the Board.

“(3) MEETING.—The Board shall hold meetings at such times and places as the Board may fix and determine. The meetings shall be held on the call of the Chairperson or any two Board members.

"(4) RULES; RECORDS.—The Board shall adopt such rules as the Board considers appropriate for the transaction of business by the Board, and shall keep permanent and accurate records and minutes of the actions and proceedings of the Board.

"(d) COMPENSATION.—

"(1) IN GENERAL.—The members of the Board shall devote their full time and attention to the business of the Board.

"(2) CHAIRPERSON.—The Chairperson of the Board shall receive compensation at the rate prescribed for level III of the Executive Schedule under section 5314 of title 5, United States Code.

"(3) OTHER MEMBERS.—Each of the other members of the Board shall receive compensation at the rate prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

"(4) EXPENSES.—Each member of the Board shall be reimbursed for necessary travel, subsistence, and other expenses in the discharge of the official duties of the member without regard to other laws with respect to allowance for travel and subsistence of officers and employees of the United States."

(b) CONFORMING AMENDMENTS.—

(1) CHAIRPERSON.—Section 5314 of title 5, United States Code, is amended by adding at the end the following new item:

"Chairperson, Board of Directors of the Farm Credit System Insurance Corporation."

(2) MEMBERS.—Section 5315 of such title is amended by adding at the end the following new item:

"Members, Board of Directors of the Farm Credit System Insurance Corporation."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall become effective on January 1, 1996.

(2) TRANSITIONAL PROVISION.—The Board of Directors of the Farm Credit System Insurance Corporation as established by section 5.53 of the Farm Credit Act of 1971 (12 U.S.C. 2277a-2) (as it existed before the amendments made by subsection (a) of this section) shall continue in existence and continue to manage the Farm Credit System Insurance Corporation until at least two members are appointed by the President, by and with the advice and consent of the Senate, to the new Board established by section 5.53 of such Act (as amended by subsection (a) of this section).

12 USC 2277a-2  
note.

#### SEC. 202. STATUTORY SUCCESSOR TO ASSISTANCE BOARD AGREEMENTS.

(a) IN GENERAL.—Section 5.58(2) (12 U.S.C. 2277a-7(2)) is amended by adding at the end the following new sentence: "The Corporation shall succeed to the rights of the Farm Credit System Assistance Board under agreements between the Farm Credit System Assistance Board and System institutions certifying the institutions as eligible to issue preferred stock pursuant to title VI on the termination of the Assistance Board on the date provided in section 6.12."

(b) CONFORMING AMENDMENTS.—Section 5.35(4) (12 U.S.C. 2271(4)) is amended—

- (1) by striking “and” at the end of subparagraph (A);
- (2) by striking the period at the end of subparagraph (B) and inserting “; and”; and

(3) by adding at the end the following new subparagraph:  
 “(C) after December 31, 1992, mean any significant noncompliance by a System institution (as determined by the Farm Credit Administration, in consultation with the Farm Credit System Insurance Corporation) with any term or condition imposed on the institution by the Farm Credit System Assistance Board under section 6.6 or by the Farm Credit System Insurance Corporation under section 5.61.”.

**SEC. 203. USE OF FARM CREDIT ADMINISTRATION PERSONNEL.**

Section 5.59(a) (12 U.S.C. 2277a-8(a)) is amended by adding at the end the following new paragraph:

“(5) USE OF FARM CREDIT ADMINISTRATION PERSONNEL.—To the extent practicable, the Corporation shall use the personnel and resources of the Farm Credit Administration to minimize duplication of effort and to reduce costs.”.

12 USC 2277a-4  
note.

**SEC. 204. GAO REPORTS ON RISK-BASED INSURANCE PREMIUMS, ACCESS TO ASSOCIATION CAPITAL, SUPPLEMENTAL PREMIUMS, AND CONSOLIDATION.**

(a) IN GENERAL.—The Comptroller General of the United States shall investigate, review, and evaluate the feasibility and appropriateness, and report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, on the advantages and disadvantages of providing the Farm Credit System Insurance Corporation with—

(1) the authority to directly or indirectly assess associations to ensure that all System capital is available to prevent losses to investors, including a study of—

(A) the effects of direct assessments by the Insurance Corporation on associations, including interest rate charges to borrowers;

(B) the effects of requiring that banks pass along the cost of insurance premiums to owner associations and other financing institutions having a discount relationship with the bank;

(C) the effects of requiring owner associations to purchase stock in the district bank, if needed, to prevent a bank from having to return to the Insurance Corporation for financial assistance once the assistance has been given;

(D) the effects of the purchase of stock from funds of the association (through funds obtained from other than the district bank) or allowing the bank to increase the direct line of credit to the association in order to fund the purchase; and

(E) the effect that authorizing the Insurance Corporation to assess the association could have on the association's incentives for building capital;

(2) the authority to collect supplemental insurance premiums under certain circumstances, including a study of—



(A) the possibility of the Insurance Fund being depleted more rapidly than it could be replenished under the current premium structure;

(B) the effects of the depletion under alternate economic scenarios and the probability of the occurrence of each of those scenarios;

(C) the effects on capital accumulation and interest rates of levying a supplemental premium; and

(D) limitations on any authority to levy supplemental premiums and the underlying basis for the limitations; and

(3) the authority to establish an insurance premium rate structure that would take into account, on an institution-by-institution basis, asset quality risk, interest rate risk, earnings, and capital.

(b) REPORT ON CONSOLIDATION.—

(1) IN GENERAL.—The Comptroller General of the United States shall evaluate and report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on whether there are likely to be benefits to farmer and rancher borrowers of the Farm Credit System institutions of merging the 10 district Farm Credit Banks (and the Federal Intermediate Credit Bank of Jackson) into fewer regional Farm Credit Banks.

(2) FACTORS.—In preparing the report, the Comptroller General shall consider—

(A) the potential reduction in services to farmers and ranchers;

(B) the potential benefits of jointly providing services to farmers and ranchers among these proposed regional districts;

(C) any economy of scale effects on a district-by-district basis;

(D) the potential impact on the cooperative nature of the Farm Credit System;

(E) the potential impact on bank and association relationships; and

(F) the potential impact on System-wide bond issuances.

(c) POTENTIAL SAVINGS.—The Comptroller General of the United States shall evaluate and report to the appropriate committees of Congress on the potential savings to the Farm Credit System and its shareholders that might occur if System institutions and the Farm Credit Administration were required to comply with General Services Administration standards for office space, furniture, and equipment.

(d) DEADLINE.—The reports required under this section shall be provided to Congress not later than 12 months after the date of enactment of this Act.

### **TITLE III—REPAYMENT OF FARM CREDIT SYSTEM DEBT OBLIGATIONS**

#### **SEC. 301. CAPITAL PRESERVATION.**

Section 6.9(e)(3) (12 U.S.C. 2278a-9(e)(3)) is amended—

(1) by striking subparagraph (C) and inserting the following new subparagraph:

“(C) PAYMENT OF PRINCIPAL.—

“(i) IN GENERAL.—After the end of the 15-year period beginning on the date of the issuance of any obligation issued to carry out this subsection, the banks operating under this Act shall pay to the Financial Assistance Corporation, on demand, an amount equal to the outstanding principal of the obligation. Each bank shall pay a proportion of the principal equal to—

“(I) the average accruing loan volume of the bank for the preceding 15 years; divided by

“(II) the average accruing loan volume of all banks of the System for the same period.

“(ii) BANKS LEAVING SYSTEM.—Any bank leaving the Farm Credit System pursuant to section 7.10 shall be required, under regulations of the Farm Credit Administration, to pay to the Financial Assistance Corporation the estimated present value of the payment required under this subparagraph had the bank remained in the System.

“(iii) BANKS UNDERGOING LIQUIDATION.—With respect to any bank undergoing liquidation under this Act, a liability to the Financial Assistance Corporation in the amount of the payment required under this subparagraph (calculated as if the bank had left the System on the date it was placed in liquidation) shall be recognized as a claim in favor of the Financial Assistance Corporation against the estate of the bank.

“(iv) OBLIGATIONS OF OTHER BANKS.—The obligations of other banks shall not be reduced in anticipation of any recoveries under this subparagraph from banks leaving the System or in liquidation, but the Financial Assistance Corporation shall apply the recoveries, when received, and all earnings on the recoveries, to reduce the other banks' payment obligations, or, to the extent the recoveries are received after the other banks have met their entire payment obligation, shall refund the recoveries, when received, to the other banks in proportion to the other banks' payments.”;

(2) by redesignating subparagraph (D) as subparagraph (E);

(3) by inserting after subparagraph (C) the following new subparagraph:

“(D) ANNUAL PAYMENTS.—

“(i) IN GENERAL.—In order to provide for the orderly funding and discharge over time of the obligation of each System bank to the Financial Assistance Corporation under subparagraph (C), each System bank shall enter into or continue in effect an agreement with the Financial Assistance Corporation under which the bank will make annual annuity-type payments to the Financial Assistance Corporation, beginning no later than December 31, 1992 (except for any bank that did not meet its interim capital requirement on December 31, 1990, in which case the bank shall begin

Contracts.

making the payments no later than December 31, 1993) in amounts designed to accumulate, in total, including earnings on the amounts, to 90 percent of the bank's ultimate obligation. The Financial Assistance Corporation shall partially discharge the bank from its obligation under subparagraph (C) to the extent of each such payment and the earnings on the payment as earned.

“(ii) CAPITAL REQUIREMENTS.—The agreement shall not require payments to be made to the extent that making a particular payment or part of a payment would cause the bank to fail to satisfy applicable regulatory permanent capital requirements, but shall provide for recalculation of subsequent payments accordingly.

“(iii) INVESTMENT; AVAILABILITY.—The funds received by the Financial Assistance Corporation pursuant to the agreements shall be invested in eligible investments as defined in section 6.25(a)(1). The funds and the earnings on the funds shall be available only for the payment of the principal of the bonds issued by the Financial Assistance Corporation under this subsection.”; and

(4) in subparagraph (E) (as redesignated by paragraph (2)), by inserting before the period at the end the following: “, nor shall the obligation to make future annuity payments to the Financial Assistance Corporation under subparagraph (D) be considered a liability of any System bank”.

#### SEC. 302. PREFERRED STOCK.

Subparagraph (B) of section 6.26(d)(1) (12 U.S.C. 2278b-6(d)(1)(B)) is amended to read as follows:

“(B) PAYMENTS BY INSTITUTIONS.—

“(i) IN GENERAL.—Except as provided in subparagraph (C), in order to enable the Financial Assistance Corporation to repay the obligation referred to in subparagraph (A), each institution that issued preferred stock under section 6.27(a) with respect to the obligation (or the successor to the institution) shall pay to the Financial Assistance Corporation, before the maturity date of the obligation, an amount equal to the par value of the stock outstanding for the institution.

“(ii) ANNUAL APPROPRIATION.—Except as provided in clause (iii), each year beginning in 1992, as soon as practicable following the end of the prior year, each such institution (except institutions in receivership and institutions that have previously redeemed their preferred stock) shall appropriate from its earnings in the prior year to an appropriated unallocated surplus account with respect to preferred stock, the sum of—

“(I) the greater of—

“(aa) such amount as the institution may be required to appropriate under any assistance agreement the institution has with the Farm Credit System Assistance Board or the

Farm Credit System Insurance Corporation;  
or

“(bb) the amount that, if appropriated to the account in equal amounts in each year thereafter until the maturity of the obligation referred to in subparagraph (A), would cause the amount in the account to equal the par value of the preferred stock issued by the institution with respect to the obligation; plus

“(II) any amount that had been appropriated to the account in a previous year but had thereafter been offset by losses.

“(iii) LIMITATION.—An annual appropriation shall not be made to the extent that the appropriation would exceed the institution's net income (as determined pursuant to generally accepted accounting principles) in that year or to the extent that the appropriation would cause the institution's preferred stock to be impaired.

“(iv) USE.—The amount in the appropriated unallocated surplus account shall be unavailable to pay dividends or other allocations or distributions to shareholders or holders of participation certificates. The account shall be senior to all other unallocated surplus accounts but junior to all preferred and common stock for purposes of the application of operating losses.

“(v) PREFERRED STOCK.—The appropriations of surplus by an institution shall not affect the treatment of its preferred stock (and of the appropriated unallocated surplus) as equity for purposes of regulatory permanent capital requirements.”.

#### SEC. 303. SYSTEMWIDE REPAYMENT OBLIGATION.

Subparagraph (C) of section 6.26(d)(1) (12 U.S.C. 2278b-6(d)(1)(C)) is amended to read as follows:

“(C) SYSTEMWIDE REPAYMENT.—

“(i) IN GENERAL.—In order to enable the Financial Assistance Corporation to repay the obligations issued to provide assistance under subsections (c) and (e) of section 410 of the Agricultural Credit Act of 1987 (12 U.S.C. 2011 note) and section 4.9A(c) of this Act, or issued to provide funds to cover the expenses of the Assistance Board or the Financial Assistance Corporation under sections 6.7(a) and 6.24, respectively, of this Act, each System bank shall pay to the Financial Assistance Corporation a proportion, as calculated by the Financial Assistance Corporation, of the obligation equal to—

“(I) the average accruing retail loan volume of the bank and its affiliated associations for the preceding 15 years; divided by

“(II) the average accruing retail loan volume of all such banks and their affiliated associations for the same period.

“(ii) EXPENSE ITEM.—The annual increase in the present value of the estimated obligation of each bank

to the Financial Assistance Corporation under this subparagraph shall be recorded each year as an expense item, in accordance with generally accepted accounting principles, on the books of the bank.

“(iii) PASS THROUGH.—A bank may (and, to the extent necessary to satisfy its obligations, shall) pass on (either directly, or indirectly through loan pricing or otherwise) all or part of the amount necessary to satisfy the payment requirement to its affiliated direct lender associations based on proportionate average accruing retail loan volumes for the preceding 15 years, except that the bank shall remain primarily liable for the amount.

“(iv) BANKS LEAVING SYSTEM.—Any bank leaving the Farm Credit System pursuant to section 7.10 shall be required, under regulations of the Farm Credit Administration, to pay to the Financial Assistance Corporation the estimated present value of the payment required under this subparagraph had the bank remained in the System. A liability to the Financial Assistance Corporation in this amount (calculated as if the bank had left the System on the date it was placed in liquidation) shall be recognized as a claim in favor of the Financial Assistance Corporation against the estate of any bank undergoing liquidation. The obligations of other banks shall not be reduced in anticipation of any such recoveries from banks leaving the System or in liquidation, but the Financial Assistance Corporation shall apply the recoveries, when received, and all earnings on the recoveries, to reduce the other banks' payment obligations, or, to the extent the recoveries are received after the other banks have met their entire payment obligation, shall refund the recoveries, when received, to the other banks in proportion to the other banks' payments.

“(v) ASSOCIATIONS TERMINATING SYSTEM STATUS OR IN LIQUIDATION.—Any association leaving the Farm Credit System pursuant to section 7.10 shall be required, under regulations of the Farm Credit Administration, to pay to its supervising bank a share, based on the association's retail loan volume relative to the retail loan volume of the bank and its affiliated associations had the association remained in the System, of the present value of the future payment obligation of its supervising bank. A liability to the bank in this amount (calculated as if the association had left the System on the date it was placed in liquidation) shall be recognized as a claim in favor of the bank against the estate of any association undergoing liquidation.”.

#### **SEC. 304. REPAYMENT OF TREASURY-PAID INTEREST.**

(a) IN GENERAL.—Paragraph (5) of section 6.26(c) (12 U.S.C. 2278b-6(c)(5)) is amended to read as follows:

“(5) REPAYMENT OF TREASURY-PAID INTEREST.—

“(A) IN GENERAL.—On the maturity date of the last-maturing debt obligation issued under subsection (a), the

Financial Assistance Corporation shall repay to the Secretary of the Treasury the total amount of any annual interest charges on the debt obligations that Farm Credit System institutions (other than the Financial Assistance Corporation) have not previously paid, and the Financial Assistance Corporation shall not be required to pay any additional interest charges on the payments.

"(B) ASSESSMENT.—In order to provide for the orderly funding by the banks of the System of the repayment by the Financial Assistance Corporation to the Secretary of the Treasury, the Financial Assistance Corporation shall assess each System bank, on or about December 31 of each year beginning in 1992, and each System bank shall promptly pay to the Financial Assistance Corporation, an annual annuity type payment in an amount designed to accumulate, in total, including earnings thereon, the amount of the bank's ultimate obligation (as determined by the Corporation on a fair and equitable basis), and no greater than .0006 nor less than .0004 times the bank's and its affiliated associations' average accruing retail loan volume for the preceding year, subject to—

"(i) upward or downward adjustment, as appropriate, by the Financial Assistance Corporation during each of the last 5 years prior to the date the Financial Assistance Corporation is obligated to make the repayment, in order to ensure that the Financial Assistance Corporation will have the amount of funds needed to make the repayment on the due date; and

"(ii) reduction or termination in any year when the funds paid to the Financial Assistance Corporation, including any anticipated future earnings on the funds, are sufficient to make the repayment on the due date.

"(C) INVESTMENT OF FUNDS.—The Financial Assistance Corporation shall invest funds derived from the investment in eligible investments as defined in section 6.25(a)(1). The funds and the earnings on the funds shall be available only for the repayment to the Secretary of the Treasury provided for in subparagraph (A).

"(D) PASS THROUGH.—A bank may (and, to the extent necessary to satisfy its obligations, shall) pass on (either directly, or indirectly through loan pricing or otherwise) all or part of the assessments to its affiliated direct lender associations based on proportionate average accruing retail loan volumes for the preceding year, but the bank shall remain primarily liable for the amounts.

"(E) LIABILITY.—

"(i) BANKS TERMINATING SYSTEM STATUS OR IN LIQUIDATION.—Any bank terminating System status pursuant to section 7.10 shall be required, under regulations of the Farm Credit Administration, to pay to the Financial Assistance Corporation the estimated present value of all future such assessments against the bank had the bank remained in the System. A liability to the Financial Assistance Corporation in this amount (calculated as if the bank had left the System on the date the bank was placed in liquidation) shall be recognized as a claim in favor of the Financial

Assistance Corporation against the estate of any bank undergoing liquidation.

“(ii) NO ANTICIPATORY REDUCTIONS IN OTHER OBLIGATIONS.—The obligations of other banks shall not be reduced in anticipation of any recoveries under this subparagraph from banks leaving the System or in liquidation.

“(iii) REFUND OF RECOVERIES.—The Financial Assistance Corporation shall apply the recoveries, when received, and all earnings on the recoveries, to reduce the other banks’ payment obligations, or, to the extent the recoveries are received after the other banks have met their entire payment obligation, shall refund the recoveries, when received, to the other banks in proportion to the other banks’ payments.

“(F) ASSOCIATIONS TERMINATING SYSTEM STATUS OR IN LIQUIDATION.—Any association terminating System status pursuant to section 7.10 shall be required, under regulations of the Farm Credit Administration, to pay to its supervising bank a share, based on the association’s retail loan volume relative to the retail loan volume of the bank and its affiliated associations had the association remained in the System, of the estimated present value of all future such assessments against the bank. A liability to the bank in this amount (calculated as if the association had left the System on the date it was placed in liquidation) shall be recognized as a claim in favor of the bank against the estate of any association undergoing liquidation.

“(G) CAPITAL REQUIREMENTS.—

“(i) IN GENERAL.—Until the date that is 5 years prior to the date on which the Financial Assistance Corporation is required to repay the Secretary of the Treasury pursuant to subparagraph (A), all assessments paid by banks to the Financial Assistance Corporation pursuant to subparagraph (B), and any part of the obligation to pay future assessments to the Financial Assistance Corporation under subparagraph (B) that is recognized as an expense on the books of any System bank or association, shall nonetheless be included in the capital of the bank or association for purposes of determining its compliance with regulatory capital requirements.

“(ii) DURING THE FINAL 5 YEARS PRIOR TO REPAYMENT.—During the—

“(I) period beginning 5 years, and ending 4 years, prior to the date on which the Financial Assistance Corporation is required to repay the Secretary of the Treasury pursuant to subparagraph (A), 60 percent;

“(II) period beginning 4 years, and ending 3 years, prior to the date on which the Financial Assistance Corporation is required to repay the Secretary of the Treasury pursuant to subparagraph (A), 30 percent; and

“(III) period beginning 3 years prior to the date on which the Financial Assistance Corpora-

tion is required to repay the Secretary of the Treasury pursuant to subparagraph (A), 0 percent, of all assessments paid by banks to the Financial Assistance Corporation pursuant to subparagraph (B), and of any part of the obligation to pay future assessments to the Financial Assistance Corporation under subparagraph (B) that is recognized as an expense on the books of any System bank or association, shall nonetheless be included in the capital of the bank or association for purposes of determining its compliance with regulatory capital requirements."

(b) **CONFORMING AMENDMENT.**—Section 6.28 (12 U.S.C. 2278b-8) is amended by striking subsection (b) and redesignating subsection (c) as subsection (b).

**SEC. 305. TRANSFER OF OBLIGATIONS FROM ASSOCIATIONS TO BANKS; OTHER MATTERS.**

Section 6.26 (12 U.S.C. 2278b-6) is amended—

(1) in subsection (c)—

(A) in the subparagraph heading of paragraph (2)(B), by striking "INSTITUTIONS" and inserting "BANKS";

(B) by striking "institutions" each place it appears in paragraphs (2)(B), (3), and (4) and inserting "banks"; and

(C) in paragraph (2), by striking subparagraphs (C) and (D) and inserting the following new subparagraph:

"(C) **ALLOCATION.**—During each year of the second 5-year period, each System bank shall pay to the Financial Assistance Corporation a proportion, as calculated by the Financial Assistance Corporation, of the interest due from System banks under this paragraph equal to—

"(i) the amount of the average accruing retail loan volume of the bank and its affiliated associations for the preceding year; divided by

"(ii) the total average accruing retail loan volume of all such banks and their affiliated associations for the preceding year.";

(2) in subsection (d)(1)—

(A) by striking subparagraph (D); and

(B) by redesignating subparagraph (E) as subparagraph (D); and

(3) by adding at the end the following new subsection:

"(e) **ADMINISTRATION.**—

"(1) **DEFINITION OF RETAIL LOAN VOLUME.**—As used in this section, the term 'retail loan volume' means all loans (as defined in accordance with generally accepted accounting principles) by a System bank or association, excluding loans by such a bank or association to another System institution.

"(2) **CALCULATION OF AVERAGE ANNUAL LOAN VOLUMES.**—For purposes of this section and section 6.9, average annual loan volumes shall be calculated using month-end balances.

"(3) **EXCLUSION OF BANKS UNDERGOING LIQUIDATION.**—For purposes of this section and section 6.9, the term 'bank' shall not include a bank that had entered liquidation prior to the date of enactment of this subsection."

**SEC. 306. DEFAULTS.**

Section 6.26(d) (12 U.S.C. 2278b-6(d)) is amended—



(1) in paragraph (3)—

(A) in subparagraph (A)—

(i) by striking the heading and inserting the following: "CERTAIN PRINCIPAL AND INTEREST OBLIGATIONS.—";

(ii) in clause (i)—

(I) by inserting after "subsection (a)," the following: "on the payment of principal or interest due under subparagraphs (B) and (C) of section 6.9(e)(3), on the payment of principal due under paragraph (1)(C), or on the payment of an assessment due under subsection (c)(5)(B).";

(II) by striking "of the interest" both places it appears; and

(III) by striking "institution" each place it appears and inserting "bank";

(iii) in clause (ii)—

(I) by striking "of interest";

(II) by striking "institution" and inserting "bank"; and

(III) by striking "such uncollected interest" and inserting "any uncollected amount"; and

(iv) in clause (iii), by striking "added" and all that follows through the period at the end and inserting "allocated to other System banks in accordance with the allocation mechanism applicable under this Act to the particular defaulted obligation.";

(B) in subparagraph (B), by striking the subparagraph heading and inserting the following new heading: "PRINCIPAL OF BONDS ISSUED TO FUND PURCHASE OF PREFERRED STOCK.—"; and

(C) in subparagraph (C)—

(i) in the heading, by striking "INSTITUTIONS" and inserting "BANKS";

(ii) by striking "institution" and inserting "bank";

(iii) by striking "institutions" both places it appears and inserting "banks"; and

(iv) by striking "the amount of any interest" and inserting "any amounts"; and

(2) in paragraph (4)—

(A) in subparagraph (A), by inserting "or section 6.9(e)(3)(A)" after "subsection (a)";

(B) in subparagraph (B)—

(i) in clause (i)—

(I) by striking the clause heading and inserting the following new heading: "CERTAIN PRINCIPAL AND INTEREST OBLIGATIONS.—";

(II) by inserting after "subsection (c)," the following: "on the payment of principal or interest due under subparagraphs (B) and (C) of section 6.9(e)(3), on the payment of principal due under paragraph (1)(C), or on the payment of an assessment due under subsection (c)(5)(B)."; and

(III) by striking "institution" each place it appears and inserting "bank"; and

(ii) in clause (ii), by striking the clause heading and inserting the following new heading: "PRINCIPAL

OF BONDS ISSUED TO FUND PURCHASE OF PREFERRED STOCK.—”

**SEC. 307. AUTHORITY OF FINANCIAL ASSISTANCE CORPORATION.**

(a) **PURPOSE.**—Section 6.21 (12 U.S.C. 2278b-1) is amended by inserting before the period at the end the following: “and to assist, pursuant to section 6.9(e) and subsections (c) through (g) of section 6.26, in the repayment by System institutions to those persons who provided funds in connection with the program”.

(b) **TERMINATION.**—Section 6.31(a) (12 U.S.C. 2278b-11(a)) is amended by striking “terminate on” and inserting the following: “terminate on the complete discharge by the Financial Assistance Corporation of its responsibilities under section 6.9(e) and subsections (c) through (g) of section 6.26 with regard to repayments by System institutions, but in no event later than 2 years following”.

**SEC. 308. TECHNICAL AMENDMENTS.**

(a) **TECHNICAL AMENDMENT TO THE FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT AMENDMENTS OF 1991.**—Section 204(3) of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Public Law 102-237; 105 Stat. 1855) is amended by striking “in section 1221(1)(D) (16 U.S.C. 3821(1)(D))” and inserting “in section 1221(a)(1)(D) (16 U.S.C. 3821(a)(1)(D))”.

(b) **TECHNICAL AMENDMENTS TO THE FARM CREDIT ACT OF 1971.**—

(1) Section 8.3(c)(13) of the Farm Credit Act of 1971 (12 U.S.C. 2279aa-3(c)(13)) is amended by striking “8.11(g)” and inserting “8.11(e)”.

(2) Section 8.11(a)(1)(B)(ii) of such Act (12 U.S.C. 2279aa-11(a)(1)(B)(ii)) is amended by striking “the date of enactment of this section” and inserting “December 13, 1991”.

(3) Section 8.32 of such Act (12 U.S.C. 2279bb-1) is amended—

(A) in each of subsections (a), (b)(1)(D), and (b)(2), by striking “the date of the enactment of this section” each place the term appears and inserting “December 13, 1991”; and

(B) in subsection (b)(1)(E), by striking “the date of the enactment of such Act” and inserting “December 13, 1991”.

## TITLE IV—CLARIFICATION OF CERTAIN AUTHORITIES

**SEC. 401. CLARIFICATION OF THE STATUS AND POWERS OF CERTAIN INSTITUTIONS OF THE FARM CREDIT SYSTEM.**

(a) **CLARIFICATION OF AUTHORITY REGARDING REMAINING FEDERAL INTERMEDIATE CREDIT BANK.**—Section 410 of the Agricultural Credit Act of 1987 (12 U.S.C. 2011 note) is amended by adding at the end the following new subsection:

“(e) **CLARIFICATION OF AUTHORITY REGARDING REMAINING FEDERAL INTERMEDIATE CREDIT BANK.**—

“(1) **NEGOTIATED MERGER.**—

“(A) **REQUIREMENT.**—

“(i) **IN GENERAL.**—Not later than June 30, 1993, except as provided in subparagraph (C), the Federal

Intermediate Credit Bank of Jackson (as chartered on the date of enactment of this subsection) shall merge with a Farm Credit Bank pursuant to the procedures prescribed by section 7.12 of the Farm Credit Act of 1971 (12 U.S.C. 2279f).

“(ii) MERGER OF ENTIRE BANK.—Notwithstanding subparagraph (B), or any other provision of law, the Farm Credit Administration shall approve a merger of the Federal Intermediate Credit Bank of Jackson only if the Bank (as chartered on the date of enactment of this subsection, except as provided in subparagraph (B)(ii)(II)(bb)) merges in its entirety with a Farm Credit Bank.

“(iii) LIMITED LENDING AUTHORITY.—Notwithstanding any provision of the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.), the Farm Credit Bank resulting from a merger under this subsection shall have only the lending authorities in the States of Alabama, Louisiana, and Mississippi that the constituent banks exercised in such States immediately prior to the merger, except as may be provided in section 5.17(a)(2) of such Act (12 U.S.C. 2252(a)(2)).

“(B) OPERATING AND MERGER AUTHORITY.—

“(i) IN GENERAL.—Except as provided in clause (ii), the Federal Intermediate Credit Bank of Jackson may operate subject to such provisions of part A of title II of the Farm Credit Act of 1971 (as in effect immediately before the amendment made by section 401 took effect) and such provisions of the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) (as in effect after the amendment), as the Farm Credit Administration deems appropriate to carry out the purposes of this subsection and such Act. This subparagraph shall take effect as if it had become law at the same time as the amendment made by section 401 and shall remain in effect until the Bank's merger with a Farm Credit Bank under this subsection, or July 1, 1994, whichever is sooner.

Effective date.

“(ii) LIMITATION ON OPERATING AUTHORITY.—

“(I) IN GENERAL.—Notwithstanding clause (i) and subparagraph (A)(ii), the authority of the Federal Intermediate Credit Bank of Jackson to operate as provided under clause (i) shall expire, and the Farm Credit Administration shall revoke the Bank's charter, immediately on the Bank's merger with a Farm Credit Bank under this subsection, or July 1, 1994, whichever is sooner.

“(II) DISTRICT BOUNDARY MODIFICATION.—Notwithstanding clause (i), the authority of the Federal Intermediate Credit Bank of Jackson shall not include the authority for the Bank to modify, nor shall the Farm Credit Administration approve such a modification to, the boundaries of the Fifth Farm Credit District to reaffiliate any portion of the District with another Farm Credit Bank, except—

“(aa) in the case of the merger of the entire Bank as an entity with a Farm Credit Bank such that the entire chartered territory of the Federal Intermediate Credit Bank of Jackson (except as provided in item (bb)) is merged with the Farm Credit Bank; and

“(bb) in the case of the reaffiliation of the Northwest Louisiana Production Credit Association with another farm credit district pursuant to the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) and any applicable regulations under such Act.

“(iii) LIMITATION ON AUTHORITY TO MERGE.—

“(I) IN GENERAL.—Notwithstanding clause (i), the authority of the Federal Intermediate Credit Bank of Jackson to merge with a Farm Credit Bank as provided under clause (i) shall expire, and the Farm Credit Administration shall revoke the Bank’s charter, immediately on the Bank’s merger with a Farm Credit Bank under this subsection, or July 1, 1994, whichever is sooner.

“(II) BANK INTEGRITY.—Notwithstanding clause (i), the authority of the Federal Intermediate Credit Bank of Jackson to merge with a Farm Credit Bank shall be limited to a merger of the Federal Intermediate Credit Bank of Jackson (as chartered on the date of enactment of this subsection to include the territory in the States of Alabama, Louisiana, and Mississippi, except as provided in clause (ii)(II)(bb)) as a whole entity such that the entire chartered territory of the Federal Intermediate Credit Bank of Jackson is merged with the Farm Credit Bank.

“(III) LIMITATION.—Beginning on the date of an order issued by the Farm Credit Administration under subparagraph (D), the authority of the Federal Intermediate Credit Bank of Jackson to merge with a Farm Credit Bank shall be limited to the arbitrated merger provided for in paragraph (2).

“(C) EXTENSION.—

“(i) LETTER OF INTENT.—If no later than June 30, 1993, the Federal Intermediate Credit Bank of Jackson delivers to the Farm Credit Administration a letter of intent to merge with a Farm Credit Bank, summarizing the terms and conditions of the merger (including, but not limited to, board composition, capital structure, exchange, or transfer of equities, and termination) signed by the chief executive officer and the members of the boards of directors of the Federal Intermediate Credit Bank of Jackson and the Farm Credit Bank, the Farm Credit Administration shall, on its determination that the letter of intent represents a bona fide good faith agreement in principle between the two banks to merge, and that there is at least a reasonable prospect that the merger will be completed in an expeditious manner, grant a one-time extension, until a date certain not later than October 31, 1993,

of the requirement under subparagraph (A). Any extension provided under this subparagraph may be conditioned on such terms and conditions as the Farm Credit Administration determines necessary to ensure that the merger described in the letter of intent is completed by the closing date of the extension.

“(ii) COMPLIANCE.—If the Farm Credit Administration grants an extension under clause (i), it shall issue an order under subparagraph (D) immediately if—

“(I) the Federal Intermediate Credit Bank of Jackson, or the Farm Credit Bank that is a signatory to the letter of intent under clause (i), provides written notification to the Farm Credit Administration that the bank does not intend to complete the merger described in the letter of intent;

“(II) the Farm Credit Administration determines that the Federal Intermediate Credit Bank of Jackson is not complying with any term or condition on which an extension under clause (i) was conditioned; or

“(III) the Farm Credit Administration determines that the Federal Intermediate Credit Bank of Jackson is not pursuing in good faith the merger provided for in the letter of intent.

If the Farm Credit Administration issues an order under subparagraph (D) pursuant to this clause, the Federal Intermediate Credit Bank of Jackson shall be deemed to have failed to comply with the requirements of subparagraph (A).

“(D) FAILURE TO MERGE; ISSUANCE OF ORDER.—If the Federal Intermediate Credit Bank of Jackson fails to comply, or notifies the Farm Credit Administration in writing that it does not intend to comply, with the requirements of subparagraph (A), the Farm Credit Administration shall, within 5 days after the date specified in subparagraph (A), or such other date specified by the Farm Credit Administration under subparagraph (C), issue, notwithstanding any other provision of law, an order requiring the Federal Intermediate Credit Bank of Jackson to merge with the Farm Credit Bank of Texas in accordance with paragraph (2).

“(2) ARBITRATED MERGER.—

“(A) IN GENERAL.—Not later than 30 days after the issuance of an order by the Farm Credit Administration under paragraph (1)(D), an arbitrator (or panel of arbitrators) shall be named by the American Arbitration Association in accordance with the Commercial Arbitration Rules of the American Arbitration Association to serve as the arbitrator referred to in this paragraph.

“(B) DUTIES.—The arbitrator shall determine the terms and conditions of the merger required under an order issued under paragraph (1)(D), such that the terms and conditions are fair and equitable to the two banks, their affiliated associations, the stockholders and borrowers of the associations, and the other institutions of the Farm Credit System, and are designed to protect or enhance the safety and soundness of the Farm Credit System. The

arbitrator shall have the authority to hire staff and secure the services of consultants as necessary to discharge the duties of the arbitrator under this paragraph.

“(C) EXPENSES.—Notwithstanding any other provision of law, the compensation and expenses of the arbitrator, the fees and expenses of the American Arbitration Association, and any expenses associated with the referendum required under subparagraph (F) shall be paid from the Farm Credit Assistance Fund established under section 6.25 of the Farm Credit Act of 1971 (12 U.S.C. 2278b-5).

“(D) DEVELOPMENT OF MERGER PLANS.—

“(i) IN GENERAL.—Not later than 100 days after the issuance of an order by the Farm Credit Administration under paragraph (1)(D), the arbitrator shall develop and submit for certification to the Farm Credit Administration a plan specifying the terms and conditions of the merger of the two banks required under this paragraph, such that the terms and conditions are fair and equitable to the two banks, their affiliated associations, the stockholders or farmer-borrowers of the associations, and the other institutions of the Farm Credit System, and are designed to protect or enhance the safety and soundness of the Farm Credit System. In devising the plan, the arbitrator shall, to the extent practicable, achieve the following objectives:

“(I) Implementation of the preferences expressed by the affected and interested parties in submissions under clause (ii).

“(II) Valuation of assets fairly, equitably, and consistently for all parties involved.

“(III) Establishment of capitalization and funding terms in a manner that treats farmer-borrowers and stockholders in the two involved farm credit districts equitably and takes account of risk.

“(IV) Ensure the viability of the resulting Farm Credit Bank and associations of the bank and the ability of the resulting bank and associations of the bank to lend to eligible borrowers at reasonable and competitive rates of interest.

“(ii) SUBMISSION OF VIEWS AND INFORMATION.—The arbitrator shall receive from affected and interested parties written submissions, in accordance with fair and reasonable procedures established by the arbitrator, regarding the terms and conditions of an appropriate plan for the merger of the two banks required under this paragraph. The Federal Intermediate Credit Bank of Jackson, the Farm Credit Bank of Texas, and their affiliated associations shall make available all books, records, financial information, and other material that the arbitrator determines is necessary to the development of the plan or the fulfillment of any other requirement under this paragraph. A copy of any submission or information provided to the arbitrator by any party under this paragraph shall be furnished to the Federal Intermediate Credit Bank of Jackson or the Farm Credit Bank of Texas on the

written request of the bank and at the bank's expense. The arbitrator shall provide both banks with a reasonable opportunity to review and respond to any submission or information provided by any party.

"(iii) CONTENT OF PLAN; FARM CREDIT BANK.—The plan developed and submitted under clause (i) shall include provisions regarding the following matters:

"(I) The initial composition, following the merger, of the board of directors of the resulting Farm Credit Bank (which shall be subject to change thereafter in accordance with the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) and any applicable regulations).

"(II) The valuation, for purposes of the merger, of the assets and liabilities of the merging banks.

"(III) The terms and conditions on which the shares of capital stock of the Federal Intermediate Credit Bank of Jackson and, if necessary, the Farm Credit Bank of Texas, will be converted into shares of the resulting Farm Credit Bank.

"(IV) The capital structure and capitalization levels of the resulting Farm Credit Bank and the affiliated associations of the Farm Credit Bank in the States of Alabama, Louisiana, and Mississippi as the arbitrator determines necessary to carry out the purposes of this paragraph (which shall be subject to change thereafter in accordance with the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) and any applicable regulations).

"(V) The terms of financing agreements between any production credit associations or agricultural credit associations described in clause (iv), and the resulting Farm Credit Bank (which shall be subject to change thereafter in accordance with the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) and any applicable regulations).

"(VI) Any other terms and conditions or other matters that the arbitrator considers necessary.

"(iv) CONTENT OF PLAN; AGRICULTURAL CREDIT ASSOCIATIONS.—If the arbitrator determines that the chartering of agricultural credit associations in the States of Alabama, Louisiana, and Mississippi will be in the best interests of the farmers, ranchers, and aquatic producers eligible to borrow from Farm Credit System associations, the plan required under this subparagraph shall also include, based on submissions from the Federal Intermediate Credit Bank of Jackson and the Farm Credit Bank of Texas, provisions for the establishment of agricultural credit associations to operate in the States, subject to approval in the referendum under subparagraph (F). Such provisions shall include provisions regarding the following matters:

"(I) A proposal for the establishment of an agricultural credit association in each of the geographic areas specified in subparagraph (F)(iii) (the charters of which, if validly issued under

subparagraph (G)(i) pursuant to approval in the referendum under subparagraph (F), shall be subject to change thereafter in accordance with the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) and any applicable regulations).

"(II) The initial composition, if the proposal for the establishment of agricultural credit associations is approved, of the board of directors of each such agricultural credit association (which shall be subject to change thereafter in accordance with the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) and any applicable regulations).

"(III) The valuation, for purposes of the proposed merger of the production credit association and the Federal land bank association in each of the geographic areas specified in subparagraph (F)(iii), of the assets and liabilities of the associations.

"(IV) The terms and conditions on which the shares of capital stock of any associations that may merge under the plan to form agricultural credit associations will be converted into shares of the resulting agricultural credit associations.

"(V) The capital structure and capitalization levels of the resulting Farm Credit Bank and such affiliated associations of the Farm Credit Bank in the States of Alabama, Louisiana, and Mississippi as the arbitrator determines necessary to carry out the purposes of this paragraph (which capital structure and capitalization levels shall be subject to change thereafter in accordance with the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) and any applicable regulations).

"(VI) The terms of financing agreements between any agricultural credit associations and the resulting Farm Credit Bank (which shall be subject to change thereafter in accordance with the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) and any applicable regulations).

"(VII) Any other terms and conditions or other matters that the arbitrator considers necessary.

"(v) CONSULTATION WITH INSURANCE CORPORATION.—The arbitrator shall consult with the Farm Credit System Insurance Corporation regarding the valuation of the assets and liabilities under the plan of merger, the capitalization of the Farm Credit System institutions resulting under the plan, and any other matters relevant to the assistance to be provided by the Insurance Corporation to facilitate the merger under subparagraph (H).

"(E) CERTIFICATION OF PLAN.—Not later than 30 days after the receipt of the plan developed by the arbitrator, the Farm Credit Administration shall—

"(i) certify; or

"(ii) recommend to the arbitrator revisions to the plan that, if incorporated into the plan, will allow the Farm Credit Administration to certify,



that the resulting bank and any resulting associations are proposed to be organized in such a fashion that they will, on implementation of the plan, operate in compliance with applicable laws and regulations. The arbitrator and the Farm Credit Administration shall work cooperatively to ensure the expeditious issuance of the certification. If the Farm Credit Administration recommends to the arbitrator revisions to the plan that, if incorporated into the plan, will allow the Farm Credit Administration to certify the plan, the arbitrator shall, not later than 15 days after receipt of the recommended revisions, incorporate the revisions into the plan as the arbitrator deems appropriate to secure the certification.

**“(F) REFERENDUM ON ASSOCIATION STRUCTURE.—**

**“(i) IN GENERAL.—**Not later than 170 days after the issuance of an order by the Farm Credit Administration under paragraph (1)(D), the American Arbitration Association shall conduct, and compile and forward to the Farm Credit Administration the results of, a vote of current farmer-borrowers of the production credit associations and the Federal land bank associations in the States of Alabama, Louisiana, and Mississippi, in accordance with the Election Rules of the American Arbitration Association, to determine whether the farmer-borrowers of each association in the geographic areas described in clause (iii) prefer to have credit delivered—

**“(I) in the case of production credit association farmer-borrowers, through a production credit association or through an agricultural credit association as proposed in the plan; and**

**“(II) in the case of Federal land bank association farmer-borrowers, through a Federal land bank association or through an agricultural credit association as proposed in the plan.**

Each farmer-borrower shall be entitled to one vote. The arbitrator shall establish record dates and other procedures for conducting the referendum. The Federal Intermediate Credit Bank of Jackson, the Farm Credit Bank of Texas, and their affiliated associations shall cooperate in the conduct of the referendum, as determined necessary by the Arbitrator.

**“(ii) DISCLOSURE.—**The arbitrator shall send to farmer-borrowers eligible to vote under this subparagraph, with their ballot, a statement describing the potential consequences to the farmer-borrowers, and to the associations from which they borrow, of voting to charter an agricultural credit association and setting forth factors that farmer-borrowers should consider relevant to the choice between credit delivery through the current association structure and the chartering of an agricultural credit association. The arbitrator shall develop the disclosure materials in cooperation with the Farm Credit Administration and ensure that the materials are not inconsistent with applicable laws and regulations.

"(iii) **TABULATION OF RESULTS.**—The results of the vote under this subparagraph shall be compiled separately for production credit association farmer-borrowers and Federal land bank association farmer-borrowers in each of the following seven geographic areas:

"(I) The area served by the Federal Land Bank Association of South Mississippi.

"(II) The area served by the Federal Land Bank Association of North Mississippi.

"(III) The area served by the Federal Land Bank Association of South Alabama.

"(IV) The area served by the Federal Land Bank Association of North Alabama.

"(V) The area served by the Federal Land Bank Association of South Louisiana.

"(VI) The area served by both the Federal Land Bank Association of North Louisiana and the First South Production Credit Association.

"(VII) The area served by both the Federal Land Bank Association of North Louisiana and the Northwest Louisiana Production Credit Association.

Public  
information.

"(iv) **PUBLICATION OF RESULTS.**—The results of the vote under this subparagraph, as tabulated by the American Arbitration Association, shall be made promptly available to the public in a manner determined appropriate by the Farm Credit Administration.

"(G) **IMPLEMENTATION.**—Not later than 10 days after the date of the receipt of the results of the referendum conducted under subparagraph (F), the Farm Credit Administration shall issue such charters or charter amendments and take such other regulatory actions as may be necessary to implement the merger or mergers as provided for under the certified plan. In this regard, the Farm Credit Administration shall—

"(i) issue a charter or charter amendment and take any such other regulatory actions as may be necessary to provide for the establishment of an agricultural credit association in each of the geographic areas described in subparagraph (F)(iii) where a majority of the farmer-borrowers of both the production credit association and the Federal land bank association voted under subparagraph (F)(i) that they preferred to have credit delivered through an agricultural credit association (which charter shall be subject to change thereafter in accordance with the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) and any applicable regulations); and

"(ii) not issue a charter or charter amendment or take any such other regulatory action to provide for the establishment of an agricultural credit association in any of the geographic areas described in subparagraph (F)(iii) where less than a majority of the farmer-borrowers of the production credit association or the Federal land bank association voted in the referendum under subparagraph (F)(i) that they

preferred to have credit delivered through an agricultural credit association (provided that the charter of any remaining association in such geographic area shall be subject to change thereafter in accordance with the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) and any applicable regulations).

**"(H) FACILITATION.—**

**"(i) IN GENERAL.—**Beginning on the date of the issuance of an order by the Farm Credit Administration under paragraph (1)(D), the Farm Credit System Insurance Corporation shall expend amounts from the Farm Credit Insurance Fund to the extent necessary to facilitate the merger prescribed in the plan.

**"(ii) MAINTENANCE OF BOOK VALUE.—**Assistance provided by the Corporation under this subparagraph shall be in amounts not to exceed that required to maintain book value per share of stockholders' equity at the same value reflected on the most recent audited financial statements of the Federal Intermediate Credit Bank of Jackson and the Farm Credit Bank of Texas prior to or effective with the date of the merger.

**"(iii) OTHER ASSISTANCE.—**Until the expiration of 5 years from the effective date of a merger authorized by this subsection, or the final resolution of any litigation against the Federal Intermediate Credit Bank of Jackson or any of its stockholders pending on the date of the enactment of this subsection, whichever is later, the Corporation shall guarantee prompt payment of any loss experienced by the merged bank, which loss is caused by the failure of any association-stockholder of the merged bank that was a stockholder of the Federal Intermediate Credit Bank of Jackson immediately prior to the merger, or any successor to the association, to pay when due any obligation of principal or interest owed by the association or its successor to the resulting bank.

**"(iv) TERMS AND CONDITIONS.—**Assistance provided by the Corporation under this subparagraph shall be on such terms and conditions as the Corporation deems appropriate to facilitate the merger.

**"(I) SAFETY AND SOUNDNESS.—**

**"(i) IN GENERAL.—**Except as provided in clause (ii), if at any time prior to the completion of the merger required under this subsection the Farm Credit Administration determines that the Federal Intermediate Credit Bank of Jackson is being operated in an unsafe or unsound manner (as determined in accordance with the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.)), the Farm Credit Administration, after consultation with the respective boards of directors of the affected banks and taking into consideration the purposes of this subsection, may require the Federal Intermediate Credit Bank of Jackson to merge with a Farm Credit Bank, subject to such terms and conditions as the Farm Credit Administration may prescribe. The Farm Credit System Insurance Corporation shall expend amounts in the Farm Credit Insurance

Fund to the extent necessary to facilitate the merger prescribed under this subparagraph, including the provision of assistance as provided in section 5.61(a)(2)(A)(iii) of the Farm Credit Act of 1971 (12 U.S.C. 2277a-10(a)(2)(A)(iii)), on such terms and conditions as the Corporation deems appropriate.

“(ii) **ARBITRATED MERGER.**—If at any time after the Farm Credit Administration issues an order under paragraph (1)(D), but prior to the completion of the merger required under this subsection, the Farm Credit Administration determines that the Federal Intermediate Credit Bank of Jackson is being operated in an unsafe or unsound manner (as determined in accordance with the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.)), the Farm Credit Administration shall, after consultation with the boards of directors of the Federal Intermediate Credit Bank of Jackson and the Farm Credit Bank of Texas, take such action as it deems necessary pursuant to the authorities provided under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) to return the operation of the Federal Intermediate Credit Bank of Jackson to a safe and sound condition, pending the completion of the merger under paragraph (2).

“(J) **MERGER PLAN FOR AGRICULTURAL CREDIT ASSOCIATIONS.**—In any of the States of Alabama, Louisiana, or Mississippi where all of the associations are chartered as agricultural credit associations, the boards of directors of each such association in each State are encouraged to submit to the farmer-borrowers of each such association for their approval a plan for merging the associations into one statewide agricultural credit association, in accordance with the applicable provisions of the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.).

“(K) **DEFINITIONS.**—As used in this paragraph:

“(i) **AGRICULTURAL CREDIT ASSOCIATION.**—The term ‘agricultural credit association’ means an association having the same authorities, attributes, and obligations as, and for all purposes an agricultural credit association resulting from the implementation of the plan under this paragraph shall be deemed to be, an association resulting from the merger of a production credit association and a Federal land bank association under section 7.8 of the Farm Credit Act of 1971 (12 U.S.C. 2279c-1).

“(ii) **FARMER-BORROWER.**—The term ‘farmer-borrower’ means a borrower from a Farm Credit System association in the State of Alabama, Louisiana, or Mississippi who holds voting stock, or is eligible to hold voting stock, in the association or a stockholder in any such association.

“(3) **REVIEW.**—

“(A) **IN GENERAL.**—Actions and determinations of the arbitrator, the Farm Credit Administration, or the Farm Credit System Insurance Corporation pursuant to this subsection shall not be subject to judicial review except as provided in this paragraph, nor shall they be subject to

the requirements of subchapter II of chapter 5 or chapter 7 of title 5, United States Code.

**“(B) AGENCY DETERMINATIONS.—**

**“(i) IN GENERAL.—**Any petition for review of a determination or other action of the Farm Credit Administration or the Farm Credit System Insurance Corporation under this subsection shall be filed in the United States Court of Appeals for the District of Columbia Circuit not later than 10 days after the determination, or the petition shall be barred. The court shall have exclusive jurisdiction to determine the proceeding in accordance with standard procedures as supplemented by procedures hereinafter provided and no other district court or court of appeals of the United States shall have jurisdiction over any such challenge in any proceeding instituted prior to, on, or after the date of enactment of this subsection. The review of any determination or action of the Farm Credit Administration or the Farm Credit System Insurance Corporation under this subsection shall be based on the examination of all of the information before the Farm Credit Administration or the Farm Credit System Insurance Corporation, as the case may be, at the time the determination was made. The court reviewing the determination or action shall not enter a stay or order of mandamus unless the court has determined, after notice and a hearing before a panel of the court, that the agency action complained of was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

**“(ii) PROCEDURES.—**Notwithstanding any other provision of law, the court may set rules governing the procedures of any such proceeding that set page limits on briefs and time limits for filing briefs and motions and other actions that are shorter than the limits specified in the Federal Rules of Civil or Appellate Procedure.

**“(iii) EXPEDITED REVIEW.—**Any such proceeding before the court shall be assigned for hearing and completed at the earliest possible date, and shall be expedited in every way. The court shall render its final decision relative to any challenge not later than 50 days from the date the challenge is brought unless the court determines that a longer period of time is required to satisfy the requirements of the Constitution.

**“(C) ARBITRATOR DETERMINATIONS.—**

**“(i) IN GENERAL.—**Except as otherwise provided in this paragraph, any petition for review of a determination or other action of the arbitrator named under paragraph (2) shall be filed in accordance with the United States Arbitration Act (9 U.S.C. 1 et seq.). Such Act shall apply to the arbitration conducted pursuant to paragraph (2) to the same extent as if the arbitration were established in a contract evidencing a transaction in commerce between the Federal

Intermediate Credit Bank of Jackson and the Farm Credit Bank of Texas.

"(ii) PROCEDURES.—Notwithstanding the United States Arbitration Act (9 U.S.C. 1 et seq.), any petition for review of a determination or other action of the arbitrator under this subsection shall be filed not later than 10 days after the determination, or the petition shall be barred. The court specified under such Act shall have exclusive jurisdiction to determine the proceeding in accordance with the applicable procedures under such Act, as supplemented by procedures hereinafter provided, and no other district court shall have jurisdiction over any such challenge in any such proceeding. Notwithstanding any other provision of law, the court may set rules governing the procedures of any such proceeding that set page limits on briefs and time limits for filing briefs and motions and other actions that are shorter than the limits specified in the United States Arbitration Act or the Federal Rules of Civil or Appellate Procedure.

"(iii) EXPEDITED REVIEW.—Any such proceeding before the court shall be assigned for hearing and completed at the earliest possible date, and shall be expedited in every way. The court shall render its final decision relative to any challenge as soon as possible in accordance with the United States Arbitration Act (9 U.S.C. 1 et seq.), or not later than 30 days from the date the challenge is brought, whichever is sooner, unless the court determines that a longer period of time is required to satisfy the requirements of the Constitution."

12 USC 2011  
note.

(b) LONG-TERM LENDING AUTHORITY OF THE FARM CREDIT BANK OF TEXAS WITH RESPECT TO THE STATES OF ALABAMA, LOUISIANA, AND MISSISSIPPI.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Farm Credit Bank of Texas may act in accordance with the exclusive charter of the bank, as amended by the Farm Credit Administration on February 7, 1989, and effective February 9, 1989 (except to the extent that the charter may be further amended by the Farm Credit Administration in accordance with its general authorities under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.), subject to such limitations on the issuance of competitive charters as may be provided in section 5.17 of such Act (12 U.S.C. 2252)).

(2) EFFECTIVE DATE.—Paragraph (1) shall take effect as if such paragraph had become law on February 7, 1989.

(c) DENIAL OF COMPETITIVE CHARTERS.—Section 5.17(a)(2) (12 U.S.C. 2252(a)(2)) is amended—

(1) by inserting "(A)" after "(2)"; and

(2) by adding at the end the following new subparagraphs:

"(B) The Farm Credit Administration shall not issue a charter to, or approve an amendment to the charter of, any institution of the Farm Credit System to operate under title I or II that would authorize the institution to exercise lending authority, whether directly or indirectly as an agent of a Farm Credit Bank, in a territory in which the charter of another such institution authorizes the other institution to exercise

like authority, whether directly or indirectly as an agent of a Farm Credit Bank, except with the approval of—

“(i) in a case affecting only the charter of one or more associations—

“(I) a majority of the shareholders (present and voting or voting by proxy) of each of the associations that would have like lending authority (whether directly or indirectly as an agent of a Farm Credit Bank) in any of that territory if the charter action were taken; and

“(II) a majority of the board of directors of the Farm Credit Bank with which the affected associations are affiliated; or

“(ii) in a case affecting the charter of one or more banks—

“(I) a majority of the shareholders (present and voting or voting by proxy) of the affiliated associations of each of the banks that would have like lending authority in any of that territory if the charter action were taken;

“(II) a majority of the shareholders (present and voting or voting by proxy) of each of the banks that would have like lending authority in any of that territory if the charter action were taken; and

“(III) a majority vote of the boards of directors of each of the banks that would have like lending authority in any of that territory if the charter action were taken.

“(C) Subparagraph (B) shall apply only in those geographic areas where, due to the failure of a Federal intermediate credit bank to merge in accordance with section 410(a) of the Agricultural Credit Act of 1987 (12 U.S.C. 2011 note), the Federal intermediate credit bank or its successor is chartered to provide short- and intermediate-term credit, and a neighboring Farm Credit Bank that is not the successor to the Federal intermediate credit bank is chartered to provide long-term credit, in the same geographic territory.”.

## TITLE V—MISCELLANEOUS

### SEC. 501. VALUATION RESERVES OF PRODUCTION CREDIT ASSOCIATIONS.

Subsection (b) of section 2.3 (12 U.S.C. 2074(b)) is amended to read as follows:

“(b) APPLICATION OF EARNINGS.—At the end of each fiscal year, each production credit association shall apply the amount of the earnings of the association for the fiscal year in excess of the operating expenses of the association (including provision for valuation reserves against loan assets in accordance with generally accepted accounting principles)—

“(1) first, to the restoration of the impairment (if any) of capital; and

“(2) second, to the establishment and maintenance of the surplus accounts, the minimum aggregate amount of which shall be prescribed by the Farm Credit Bank.”.

**SEC. 502. RISK MANAGEMENT PARTICIPATION AUTHORITY.**

Section 3.1(11) (12 U.S.C. 2122(11)) is amended—

(1) by inserting "(A)" after "(11)"; and

(2) by adding at the end the following new subparagraph:

"(B)(i) Participate in any loan of a type otherwise authorized under this title that is made to a similar entity by any institution in the business of extending credit, including purchases of participations in loans to finance international trade transactions involving the sale of agricultural commodities or the products thereof, except that—

"(I) a bank for cooperatives may not participate in a loan—

"(aa) if the participation would cause the total amount of all loan participations by the bank under this subparagraph involving a single credit risk to exceed 10 percent of the bank's total capital; or

"(bb) if the participation by the bank will itself equal or exceed 50 percent of the principal of the loan or, when taken together with participations in the loan by the other banks for cooperatives under this subparagraph, will cause the cumulative amount of the participations by all banks for cooperatives in the loan to equal or exceed 50 percent of the principal of the loan;

"(II) a bank for cooperatives may not participate in a loan to a similar entity under this subparagraph if the similar entity has a loan or loan commitment outstanding with a Farm Credit Bank or an association chartered under this Act, unless agreed to by the Bank or association; and

"(III) the cumulative amount of participations that a bank for cooperatives may have outstanding under this subparagraph at any time may not exceed 15 percent of the bank's total assets.

"(ii) As used in this subparagraph, the term 'similar entity' means an entity that, while not eligible for a loan under section 3.8, is functionally similar to an entity eligible for a loan under section 3.8 in that it derives a majority of its income from, or has a majority of its assets invested in, the conduct of activities functionally similar to those conducted by the entity.

"(iii) With respect to similar entities that are eligible to borrow from a Farm Credit Bank or association under title I or II, the authority of a bank for cooperatives to participate in loans to the entities under this subparagraph shall be subject to the prior approval of the Farm Credit Bank or Banks in whose chartered territory the entity is eligible to borrow. The approval may be granted on an annual basis and under such terms and conditions as may be agreed on between the bank for cooperatives and the Farm Credit Bank or Banks that serve the territory."

**SEC. 503. EQUITY VOTING FOR ONE DIRECTOR OF EACH BANK FOR COOPERATIVES.**

Section 3.2(a) of the Farm Credit Act of 1971 (12 U.S.C. 2123(a)) is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end the following new paragraph:

"(2)(A) If approved by the stockholders through a bylaw amendment, the nomination and election of one member from a bank for cooperatives (other than the National Bank for Cooperatives) shall be carried out with each voting stockholder of a bank for



cooperatives having one vote, plus a number of votes (or fractional part thereof) equal to—

“(i) the number of stockholders eligible to vote; multiplied by

“(ii) the percentage (or fractional part thereof) of the total equity interest (including allocated, but not unallocated, surplus and reserves) in the bank of all stockholders held by the individual voting stockholder at the close of the immediately preceding fiscal year of the bank.

“(B) The total number of votes under this paragraph shall be the number of voting stockholders of a bank for cooperatives multiplied by two.”.

#### **SEC. 504. TECHNICAL AMENDMENT.**

The first sentence of section 3.7(a) (12 U.S.C. 2128(a)) is amended by inserting “at any time (whether or not they have a loan from the bank outstanding)” after “technical and financial assistance”.

#### **SEC. 505. EXPANSION OF WATER AND SEWER LENDING AUTHORITY OF BANKS FOR COOPERATIVES.**

Section 3.7(f) (12 U.S.C. 2128(f)) is amended—

(1) by striking “the installation, expansion, or improvement of” and inserting “installing, maintaining, expanding, improving, or operating”; and

(2) by striking “to extend” and inserting “extending”.

#### **SEC. 506. ELIGIBILITY TO BORROW FROM A BANK FOR COOPERATIVES.**

Section 3.8(b)(1) (12 U.S.C. 2129(b)(1)) is amended by adding at the end the following new subparagraph:

“(E) Any creditworthy private entity that satisfies the requirements for a service cooperative under paragraphs (1), (2), and (4) of subsection (a) and subsidiaries of the entity, if the entity is organized to benefit agriculture in furtherance of the welfare of its farmer-members and is operated on a not-for-profit basis.”.

#### **SEC. 507. NON-VOTING REPRESENTATIVE ON BOARD OF FUNDING CORPORATION.**

Paragraph (2) of section 4.9(d) (12 U.S.C. 2160(d)(2)) is amended to read as follows:

“(2) NON-VOTING REPRESENTATIVES.—

“(A) ASSISTANCE BOARD.—During the period in which the Assistance Board is in existence, the board of directors of the Assistance Board shall designate one of its directors to serve as a non-voting representative to the board of directors of the Corporation.

“(B) MEETINGS.—The person designated by the Assistance Board under subparagraph (A) may attend and participate in all deliberations of the board of directors of the Corporation.

“(C) TERMINATION OF ASSISTANCE BOARD.—After termination of the Assistance Board, neither the Assistance Board nor its successor, the Farm Credit System Insurance Corporation, shall have any representation on the board of directors of the Corporation.”.

**SEC. 508. REPEAL OF PROHIBITION AGAINST GUARANTEE OF CERTAIN INSTRUMENTS OF INDEBTEDNESS.**

Section 4.16 (12 U.S.C. 2204) is repealed.

**SEC. 509. COMPENSATION OF BANK DIRECTORS.**

Section 4.21 (12 U.S.C. 2209) is amended to read as follows:

**“SEC. 4.21. COMPENSATION OF BANK DIRECTORS.**

“(a) IN GENERAL.—The Farm Credit Administration shall monitor the compensation of members of the board of directors of a System bank received as compensation for serving as a director of the bank to ensure that the amount of the compensation does not exceed a level of \$20,000 per year, as adjusted to reflect changes in the Consumer Price Index for all urban consumers published by the Bureau of Labor Statistics, unless the Farm Credit Administration determines that such level adversely affects the safety and soundness of the bank.

“(b) WAIVER.—The Farm Credit Administration may waive the limitation prescribed in subsection (a) under exceptional circumstances, as determined in accordance with regulations promulgated by the Farm Credit Administration.”

**SEC. 510. CLARIFICATION OF TREATMENT OF FARM CREDIT ADMINISTRATION OPERATING EXPENSES.**

Section 5.15(b)(1) (12 U.S.C. 2250(b)(1)) is amended—

(1) by inserting “, for purposes of sequestration,” after “regard”; and

(2) by striking “or any other law”.

**SEC. 511. APPROVAL OF COMPETITIVE CHARTERS.**

Section 5.17(a) (12 U.S.C. 2252(a)) is amended by adding at the end the following new paragraphs:

“(13)(A) Subject to subparagraph (B), the Farm Credit Administration may approve an amendment to the charter of any institution of the Farm Credit System operating under title I or II, which would authorize the institution to exercise lending authority in any territory—

“(i) in the geographic area served by an association that was reassigned pursuant to section 433 of the Agricultural Credit Act of 1987 (12 U.S.C. 2071 note) (where the geographic area was a part of the association’s territory as of the date of the reassignment); and

“(ii) in which the charter of an institution that is not seeking the charter amendment authorizes the institution to exercise the type of lending authority that is the subject of the charter request.

“(B) The Farm Credit Administration may approve a charter amendment under subparagraph (A) only on the approval of—

“(i) the respective boards of directors of the associations that, if the charter request is approved, would exercise like lending authority in any of the territory that is the subject of the charter request;

“(ii) a majority of the stockholders of each association described in clause (i) voting, in person or by proxy, at a duly authorized stockholders’ meeting; and

“(iii) the respective boards of directors of the Farm Credit Banks that, if the charter request is approved, would

exercise, either directly or through associations, like lending authority in any of the territory described in subparagraph (A)(i).

“(14)(A) Subject to subparagraph (B), the Farm Credit Administration may approve a request to charter an association of the Farm Credit System to operate under title II where the proposed charter—

“(i) will include any of the geographic area included in the territory served by an association that was reassigned pursuant to section 433 of the Agricultural Credit Act of 1987 (12 U.S.C. 2071 note) (where the geographic area was a part of the association’s territory as of the date of the reassignment); and

“(ii) will authorize the association to exercise lending authority in any territory in the geographic area in which the charter of an association that is not requesting the charter authorizes the association to exercise the type of lending authority that is the subject of the charter request.

“(B) The Farm Credit Administration may approve a charter request under subparagraph (A) only on the approval of—

“(i) the respective boards of directors of the associations that, if the charter request is approved, would exercise like lending authority in any of the territory that is the subject of the charter request;

“(ii) a majority vote of the stockholders (if any) of each association described in clause (i) voting, in person or by proxy, at a duly authorized stockholder’s meeting; and

“(iii) the respective boards of directors of the Farm Credit Banks that, if the charter request is approved, would exercise, either directly or through associations, like lending authority in any of the territory described in subparagraph (A)(i).”

#### SEC. 512. EXAMINATIONS.

The third sentence of section 5.19(a) (12 U.S.C. 2254(a)) is amended by striking “shall include” and inserting “may include, if appropriate”.

#### SEC. 513. AUTHORITY TO EXAMINE SYSTEM INSTITUTIONS.

(a) AUTHORITY OF FARM CREDIT SYSTEM INSURANCE CORPORATION.—Section 5.59 (12 U.S.C. 2277a-8) is amended—

(1) in the section heading, by striking “INSURED SYSTEM BANKS” and inserting “SYSTEM INSTITUTIONS”; and

(2) by striking subsection (b) and inserting the following new subsection:

“(b) EXAMINATION OF SYSTEM INSTITUTIONS.—

“(1) EXAMINATION AUTHORITY.—

“(A) IN GENERAL.—If the Board of Directors considers it necessary to examine an insured System bank, a production credit association, an association making direct loans under the authority provided under section 7.6, or any System institution in receivership, the Board may, using Farm Credit Administration examiners, conduct the examination using reports and other information on the System institution prepared or held by the Farm Credit Administration.

**"(B) REQUEST FOR ADDITIONAL EXAMINATION OR OTHER INFORMATION.**—If the Board determines that such reports or information are not adequate to enable the Corporation to carry out the duties of the Corporation under this subsection, the Board shall request the Farm Credit Administration to examine or to obtain other information from or about the System institution and provide to the Corporation the resulting examination report or such other information.

**"(2) APPOINTMENT OF EXAMINERS.**—If the Farm Credit Administration informs the Corporation that the Farm Credit Administration is unable to comply with a request made under paragraph (1)(B) with respect to a System institution, the Board may appoint examiners to examine the institution.

**"(3) POWERS AND REPORT.**—Each examiner appointed under paragraph (2) shall make such examination of the affairs of the System institution as the Board may direct, and shall make a full and detailed report of the examination to the Corporation.

**"(4) APPOINTMENT OF CLAIM AGENTS.**—The Board of Directors of the Corporation shall appoint claim agents who may investigate and examine all claims for insured obligations."

**(b) DUTIES OF THE FARM CREDIT ADMINISTRATION.**—Section 5.19 (12 U.S.C. 2254) is amended by adding at the end the following new subsection:

**"(d) On receipt of a request made under section 5.59(b)(1)(B) with respect to a System institution, the Farm Credit Administration shall—**

Confidentiality.  
Reports.

**"(1) furnish for the confidential use of the Farm Credit System Insurance Corporation reports of examination of the institution and other reports or information on the institution; and**

**"(2)(A) examine, or obtain other information on, the institution and furnish for the confidential use of the Farm Credit System Insurance Corporation the report of the examination and such other information; or**

**"(B) if the Farm Credit Administration Board determines that compliance with the request would substantially impair the ability of the Farm Credit Administration to carry out the other duties and responsibilities of the Farm Credit Administration under this Act, notify the Board of Directors of the Farm Credit System Insurance Corporation that the Farm Credit Administration will be unable to comply with the request."**

**SEC. 514. FINANCIAL DISCLOSURE AND CONFLICT OF INTEREST REPORTING BY DIRECTORS, OFFICERS, AND EMPLOYEES OF FARM CREDIT SYSTEM INSTITUTIONS.**

**(a) FINDINGS.**—Congress finds that—

(1) the disclosure of the compensation paid to, loans made to, and transactions made with a Farm Credit System institution by, directors and senior officers of the institution provides the stockholders of the institutions with information necessary to better manage the institutions, provides the Farm Credit Administration with information necessary to efficiently and effectively regulate the institutions, and enhances the financial

integrity of the Farm Credit System by making the information available to potential investors;

(2) the reporting of potential conflicts of interest by directors, officers, and employees of institutions of the Farm Credit System benefits the stockholders of the institutions, helps to ensure the financial viability of the institutions, provides information valuable to the Farm Credit Administration in periodic examinations of the institutions, and therefore enhances the safety and soundness of the Farm Credit System; and

(3) the directors, officers, or employees of some Farm Credit System institutions may not be subject to the regulations of the Farm Credit Administration requiring the disclosure of the financial information and the reporting of the potential conflicts of interest.

(b) PURPOSE.—It is the purpose of this section to ensure that the information reported by the directors, officers, and employees of Farm Credit System institutions under regulations of the Farm Credit Administration requiring the disclosure of financial information and the reporting of potential conflicts of interest—

(1) provides the stockholders of all Farm Credit System institutions with information to assist the stockholders in making informed decisions regarding the operation of the institutions;

(2) provides investors and potential investors with information necessary to assist them in making investment decisions regarding Farm Credit System obligations or institutions; and

(3) provides the Farm Credit Administration with information necessary to allow the Farm Credit Administration to effectively and efficiently examine and regulate all Farm Credit System institutions and thus enhance the safety and soundness of the Farm Credit System.

(c) REVIEW.—Not later than 120 days after the date of enactment of this Act, the Farm Credit Administration shall complete a review of the current regulations of the Farm Credit Administration regarding the disclosure of financial information and the reporting of potential conflicts of interest by the directors, officers, and employees of Farm Credit System institutions. Consistent with the purpose of this section as provided in subsection (b), the review shall address whether the regulations—

(1) are adequate to fulfill the purpose of this section and such other purposes as the Farm Credit Administration determines to be consistent with the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.), and other applicable law, and to be otherwise necessary or appropriate;

(2) currently require the disclosure of financial information and the reporting of potential conflicts of interest by the directors, officers, and employees of all Farm Credit System institutions; and

(3) currently require the disclosure or reporting of the information by all of the appropriate directors, officers, or employees of Farm Credit System institutions.

(d) IMPLEMENTATION.—Not later than 360 days after the date of enactment of this Act, the Farm Credit Administration shall amend its current financial disclosure and conflict of interest regulations as the Administration determines necessary to carry out the purpose of this section and to address any deficiencies in the regula-

Regulations.

tions that the Farm Credit Administration determines necessary pursuant to the review conducted under subsection (c).

**SEC. 515. ONE-TIME EFAP ASSISTANCE.**

(a) **USE OF ACCOUNT.**—The Secretary of Agriculture shall use the account in which funds appropriated under section 214 of the Emergency Food Assistance Act of 1983 (Public Law 98-8; 7 U.S.C. 612c note) are credited or deposited, or another account established for the use of the Secretary of Agriculture, for the purpose of purchasing, processing and distributing additional commodities for the emergency food assistance program established under such Act (7 U.S.C. 612c note) as required by this section.

(b) **USE OF RECEIPTS.**—

(1) **IN GENERAL.**—Not later than 10 days after the date of enactment of this Act, the Director of the Office of Management and Budget shall—

(A) calculate the estimated present value of the future receipts available to the Federal Government, under procedures or definitions established in the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.), as a result of enactment of this Act and the amendments made by this Act; and

(B) advise the Secretary of Agriculture, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate of the dollar amount of that value.

(2) **CREDIT.**—Not later than 20 days after the date of enactment of this Act, an amount equal to the dollar amount of that value shall be credited to, or deposited in, the account referred to in subsection (a) by the Secretary of the Treasury.

(c) **REQUIRED PURCHASE OF COMMODITIES BY THE SECRETARY OF AGRICULTURE.**—

(1) **IN GENERAL.**—The Secretary of Agriculture shall—

(A) use all of the funds provided to the Secretary under subsection (a) to purchase, process, and distribute additional commodities for the emergency food assistance program; and

(B) allot the additional commodities to States in accordance with the application of the allocation formula established in section 214(f) of the Emergency Food Assistance Act of 1983 (Public Law 98-8; 7 U.S.C. 612c note) to the total value of the additional commodities.

(2) **TYPES AND VARIETIES.**—The additional commodities shall be of the types and varieties required under section 214(d) of such Act.

(3) **REALLOCATION.**—The additional commodities may be reallocated under procedures established by the Secretary of Agriculture in accordance with section 214(g) of such Act.

(d) **ENTITLEMENT TO RECEIVE COMMODITIES.**—Each State shall be entitled to receive during fiscal year 1993 its allotment of the additional commodities purchased by the Secretary of Agriculture under this section.

(e) **TERMINATION OF AUTHORITY.**—The authority provided to carry out this section shall terminate on September 30, 1993.

**SEC. 516. TECHNICAL CORRECTIONS.**

(a) **CORRECTION OF REFERENCE TO SECTION 1236 OF THE FOOD SECURITY ACT OF 1985.**—The matter under the heading "CONSTRUC-

**TION AND ANADROMOUS FISH** of title I of the Department of the Interior and Related Agencies Appropriations Act, 1991 (Public Law 101-512; 104 Stat. 1918) is amended by striking "title 16 U.S.C. section 3832(a)(6)" and inserting "section 1232(a)(6) of the Food Security Act of 1985 (16 U.S.C. 3832(a)(6))".

16 USC 3832.

(b) **SECTION 1245(b) OF THE FOOD SECURITY ACT OF 1985.**—

(1) **CORRECTION.**—Section 1245(b) of the Food Security Act of 1985 (16 U.S.C. 3845(b)) is amended by striking "(A) through (G)" and inserting "A through G".

16 USC 3845  
note.

(2) **EFFECTIVE DATE.**—The amendment made by paragraph (1) shall take effect immediately after section 1443 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 104 Stat. 3602) took effect.

(c) **SECTION 307(a)(6)(B) OF THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.**—

(1) **CORRECTION.**—Section 307(a)(6)(B) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1927(a)(6)(B)) is amended by striking clause (ii), and by redesignating clauses (iii) through (viii) as clauses (ii) through (vii), respectively.

7 USC 1927  
note.

(2) **EFFECTIVE DATE.**—The amendments made by paragraph (1) of this subsection shall take effect at the same time as the amendments made by section 501(a) of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Public Law 102-237; 105 Stat. 1865) took effect.

(d) **SECTION 310B(c) OF THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.**—Section 310B(c) (7 U.S.C. 1932(c)) is amended by striking "business enterprises," and inserting "business enterprises or the creation, expansion, and operation of rural distance learning networks or rural learning programs that provide educational instruction or job training instruction related to potential employment or job advancement to adult students,".

(e) **SECTION 310D(a) OF THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.**—

(1) **CORRECTION.**—Section 310D(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1934(a)) is amended by striking "304(d)(1)" and inserting "304(a)(1)".

7 USC 1934  
note.

(2) **EFFECTIVE DATE.**—The amendment made by paragraph (1) of this subsection shall take effect at the same time as the amendments made by section 501(a) of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Public Law 102-237; 105 Stat. 1865) took effect.

(f) **SECTION 312(a) OF THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.**—

(1) **REPLACEMENT OF UNEXECUTABLE AMENDMENT MADE BY THE FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.**—

(A) **CORRECTION.**—Subsection (b) of section 1818 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 104 Stat. 3830) is amended to read as follows:

7 USC 1942.

"(b) **OPERATING LOAN PURPOSES.**—The first sentence of section 312(a) (7 U.S.C. 1942(a)) is amended—

"(1) by striking 'and' at the end of clause (11); and

"(2) by inserting ', and (13) borrower training under section 359' before the period at the end."

(B) **EFFECTIVE DATE.**—The amendment made by subparagraph (A) shall take effect as if included in the

7 USC 1942  
note.

Food, Agriculture, Conservation, and Trade Act of 1990 at the time such Act became law.

7 USC 1942  
and note.

(2) REPEAL OF UNEXECUTABLE AMENDMENT MADE BY THE FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT AMENDMENTS OF 1991.—Subsection (b) of section 501 of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Public Law 102-237; 105 Stat. 1866) is repealed. The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) shall be applied and administered as if such subsection had never become law.

(g) AMENDMENTS TO SECTION 331E OF THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.—

(1) CORRECTION.—Section 331E of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981e) is amended—

(A) in subsection (a), by striking “Disaster Relief Act of 1974” and inserting “Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.)”; and

(B) in subsection (b), by inserting “Robert T. Stafford” before “Disaster Relief”.

7 USC 1981e  
note.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) of this subsection shall take effect immediately after section 501(d) of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Public Law 102-237; 105 Stat. 1866) took effect.

(h) SECTION 335(e)(1)(A)(i) OF THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.—

(1) CORRECTIONS TO AMENDMENT MADE BY THE FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT AMENDMENTS OF 1991.—Section 501(f)(1) of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Public Law 102-237; 105 Stat. 1867) is amended—

7 USC 1985.

(A) by inserting “the first place such term appears” before “and all that follows”; and

(B) by striking “borrower-owner (as defined in subparagraph (F))” and inserting “the borrower-owner (as defined in subparagraph (F))”.

7 USC 1985  
note.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) of this subsection shall take effect immediately after section 501(f) of the Food, Agriculture, Conservation, and Trade Act of 1990 took effect.

(i) SECTION 352(a) OF THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.—Section 352(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2000(a)) is amended by redesignating the second paragraph (4) as paragraph (5).

(j) SECTION 352(b)(2) OF THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.—

(1) CORRECTION.—Section 352(b)(2) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2000(b)(2)) is amended by striking “borrower’s” and inserting “borrower-owner’s”.

7 USC 2000  
note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) of this subsection shall take effect at the same time as the amendments made by section 501(f) of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Public Law 102-237; 105 Stat. 1867) took effect.



(k) SECTION 702(h)(2) OF THE FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT AMENDMENTS OF 1991.—Section 702(h)(2) of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Public Law 102-237; 105 Stat. 1881) is amended by inserting “section” before “2388(h)(3)”.

7 USC 1991  
note.

(l) SECTION 306C(b)(1) OF THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.—Section 306C(b)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926c(b)(1)) is amended by striking “or connecting such systems to the residences of such individuals” and inserting “, connecting the systems to the residences of the individuals, or installing plumbing and fixtures within the residences of the individuals to facilitate the use of the water supply and waste disposal systems”.

(m) SECTION 306C OF THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.—Section 306C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926c) is amended by adding at the end the following new subsection:

“(f) REGULATIONS.—Not later than 30 days after the date of enactment of this subsection, the Secretary shall issue interim final regulations, with a request for public comments, implementing this section.”.

Approved October 28, 1992.

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**LEGISLATIVE HISTORY—H.R. 6125:**

CONGRESSIONAL RECORD, Vol. 138 (1992):

Oct. 4, considered and passed House.

Oct. 7, considered and passed Senate.

Public Law 102-553  
102d Congress

An Act

Oct. 28, 1992  
[H.R. 6128]

To amend the United States Warehouse Act to provide for the use of electronic cotton warehouse receipts, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. USE OF ELECTRONIC COTTON WAREHOUSE RECEIPTS.**

Section 17(c) of the United States Warehouse Act (7 U.S.C. 259(c)) is amended—

(1) in paragraph (1)(A)—

(A) by striking “The Secretary” and inserting “Notwithstanding any other provision of Federal or State law, the Secretary”;

(B) by inserting after “licensed under this Act” the following: “or in any other warehouse”; and

(C) by striking “under section 18” and inserting “(i) under section 18 in the case of a warehouse licensed under this Act or (ii) under any applicable State law in the case of a warehouse not licensed under this Act”;

(2) in paragraph (2)—

(A) by striking “provision of law—” and inserting “provision of Federal or State law.”;

(B) in subparagraph (A)—

(i) by striking “the record” and inserting “The record”;

(ii) by striking “ownership” both places it appears and inserting “possessory”;

(iii) by striking “of this Act” and inserting “of this Act or State law”; and

(iv) by striking “; and” and inserting a period; and

(C) by striking subparagraph (B) and inserting the following new subparagraph:

“(B) Any person designated as a holder of an electronic warehouse receipt authorized under this subsection and subsection (d) shall, for the purpose of perfecting the security interest of the person under Federal or State law with respect to the cotton covered by the warehouse receipt, be considered to be in possession of the warehouse receipt. If more than one security interest exist in the cotton reflected on the electronic warehouse receipt, the priority of the security interests shall be determined by the applicable Federal or State law. This subsection is applicable to electronic cotton warehouse receipts and any other security interests covering cotton stored in a cotton warehouse, regardless of whether the warehouse is licensed under this Act.”; and

(3) in paragraph (3)—

(A) by striking “licensed under this Act” and inserting “covered under this subsection”; and

(B) by striking "owner" and inserting "holder".

**SEC. 2. EXPEDITED ACTION ON MARKETING ORDERS.**

Section 8c(1) of the Agricultural Adjustment Act (7 U.S.C. 608c(1)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by adding at the end the following new sentences: "In carrying out this section, the Secretary shall complete all informal rulemaking actions necessary to respond to recommendations submitted by administrative committees for such orders as expeditiously as possible, but not more than 45 days (to the extent practicable) after submission of the committee recommendations. The Secretary shall establish time frames for each office and agency within the Department of Agriculture to consider the committee recommendations."

Approved October 28, 1992.

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**LEGISLATIVE HISTORY—H.R. 6128:**

CONGRESSIONAL RECORD, Vol. 138 (1992):

Oct. 4, considered and passed House.

Oct. 7, considered and passed Senate.

Public Law 102-554  
102d Congress

An Act

Oct. 28, 1992  
[H.R. 6129]

To amend the Consolidated Farm and Rural Development Act to establish a program to aid beginning farmers and ranchers and to improve the operation of the Farmers Home Administration, and to amend the Farm Credit Act of 1971, and for other purposes.

Agricultural  
Credit  
Improvement  
Act of 1992.  
7 USC 1921 note.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Agricultural Credit Improvement Act of 1992”.

(b) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. References to the Consolidated Farm and Rural Development Act.
- Sec. 3. Limitation on aggregate indebtedness.
- Sec. 4. Interest rate for loans sold into secondary market; guaranteed loan fees.
- Sec. 5. Federal-State beginning farmer partnership.
- Sec. 6. Grants for private business enterprises.
- Sec. 7. Down payment loan program.
- Sec. 8. Special assistance to certain qualified beginning farmers and ranchers.
- Sec. 9. Graduation of borrowers with operating loans or guarantees to private commercial credit.
- Sec. 10. Consideration of borrowers for loan service programs.
- Sec. 11. Time period within which county committee is required to meet to consider applications for farm ownership and operating loans and guarantees and beginning farmer plans.
- Sec. 12. Increase in period during which county committee loan eligibility certification continues in effect.
- Sec. 13. Processing of applications for farm operating loans.
- Sec. 14. Graduation of seasoned direct loan borrowers to the loan guarantee program.
- Sec. 15. Simplified application for guaranteed loans of \$50,000 or less.
- Sec. 16. Inventory lease or lease with option to purchase.
- Sec. 17. Transfer of Indian lands pledged as collateral for FmHA loans.
- Sec. 18. Debt service margin requirements; certified lenders program.
- Sec. 19. Definition of qualified beginning farmer or rancher.
- Sec. 20. Targeting of funds.
- Sec. 21. Equal access to FmHA assistance by gender.
- Sec. 22. State mediation programs.
- Sec. 23. Regulations.
- Sec. 24. Technical amendment.

**SEC. 2. REFERENCES TO THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.**

Wherever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.), except to the extent otherwise specifically provided.

**SEC. 3. LIMITATION ON AGGREGATE INDEBTEDNESS.**

Section 305 (7 U.S.C. 1925) is amended by striking “and 310D of this title” and inserting “310D, and 310E”.

**SEC. 4. INTEREST RATE FOR LOANS SOLD INTO SECONDARY MARKET;  
GUARANTEED LOAN FEES.**

Section 309(h) (7 U.S.C. 1929(h)) is amended—

(1) by inserting “(1)” after “(h)”; and

(2) by adding at the end the following new paragraphs:

“(2) The interest rate payable by a borrower on the portion of a guaranteed loan that is sold by a lender to the secondary market under this title may be lower than the interest rate charged on the portion retained by the lender, but shall not exceed the average interest rate charged by the lender on loans made to farm and ranch borrowers.

“(3) With regard to any loan guarantee on a loan made by a commercial or cooperative lender related to a loan made by the Secretary under section 310E—

“(A) the Secretary shall not charge a fee to any person (including a lender); and

“(B) a lender may charge a loan origination and servicing fee in an amount not to exceed 1 percent of the amount of the loan.”

**SEC. 5. FEDERAL-STATE BEGINNING FARMER PARTNERSHIP.**

Inter-  
governmental  
relations.

(a) **COORDINATION OF ASSISTANCE FOR QUALIFIED BEGINNING FARMERS AND RANCHERS.**—Section 309 (7 U.S.C. 1929) is amended by adding at the end the following new subsection:

“(i)(1) Not later than 60 days after any State expresses to the Secretary, in writing, a desire to coordinate the provision of financial assistance to qualified beginning farmers and ranchers in the State, the Secretary and the State shall conclude a joint memorandum of understanding that shall govern the coordination of the provision of the financial assistance by the State and the Secretary.

“(2) The memorandum of understanding shall provide that if a State beginning farmer program makes a commitment to provide a qualified beginning farmer or rancher with financing to establish or maintain a viable farming or ranching operation, the Secretary shall, subject to applicable law, normal loan approval criteria, and the availability of funds provide the farmer or rancher with a down payment loan under section 310E or a guarantee of the financing provided by the State program, or both.

“(3) The Secretary shall not charge any person (including a lender) any fee with respect to the provision of any guarantee under this subsection.

“(4) The Secretary shall notify each State of the provisions of this subsection.

“(5) As used in paragraph (1), the term ‘State beginning farmer program’ means any program that is—

“(A) carried out by, or under contract with, a State; and

“(B) designed to assist persons in obtaining the financial assistance necessary to enter agriculture and establish viable farming or ranching operations.”

(b) **ADVISORY COMMITTEE.**—

7 USC 1921 note.

(1) **ESTABLISHMENT; PURPOSE.**—Not later than 18 months after the date of enactment of this Act, the Secretary of Agriculture shall establish an advisory committee, to be known as the “Advisory Committee on Beginning Farmers and Ranchers”, which shall provide advice to the Secretary on—

(A) the development of the program of coordinated assistance to qualified beginning farmers and ranchers under section 309(i) of the Consolidated Farm and Rural Development Act (as added by subsection (a) of this section);

(B) methods of maximizing the number of new farming and ranching opportunities created through the program;

(C) methods of encouraging States to participate in the program;

(D) the administration of the program; and

(E) other methods of creating new farming or ranching opportunities.

(2) **MEMBERSHIP.**—The Secretary shall appoint the members of the Advisory Committee. The Advisory Committee shall include representatives from the following:

(A) The Farmers Home Administration.

(B) State beginning farmer programs (as defined in section 309(i)(5) of the Consolidated Farm and Rural Development Act (as added by subsection (a) of this section)).

(C) Commercial lenders.

(D) Private nonprofit organizations with active beginning farmer or rancher programs.

(E) The Cooperative Extension Service.

(F) Community colleges or other educational institutions with demonstrated experience in training beginning farmers or ranchers.

(G) Other entities or persons providing lending or technical assistance for qualified beginning farmers or ranchers.

#### **SEC. 6. GRANTS FOR PRIVATE BUSINESS ENTERPRISES.**

Section 310B(c) (7 U.S.C. 1932(c)) is amended—

(1) by inserting “(1)” after “(c)”; and

(2) by adding at the end the following new paragraph:

“(2) The Secretary may make grants to qualified nonprofit organizations for the provision of technical assistance and training to rural communities for the purpose of improving passenger transportation services or facilities. Assistance provided under this paragraph may include on-site technical assistance to local and regional governments, public transit agencies, and related nonprofit and for-profit organizations in rural areas, the development of training materials, and the provision of necessary training assistance to local officials and agencies in rural areas.”.

#### **SEC. 7. DOWN PAYMENT LOAN PROGRAM.**

(a) **IN GENERAL.**—Subtitle A (7 U.S.C. 1922 et seq.) is amended by adding at the end the following new section:

##### **“SEC. 310E. DOWN PAYMENT LOAN PROGRAM.**

“(a) **IN GENERAL.**—

“(1) **ESTABLISHMENT.**—Notwithstanding any other section of this subtitle, the Secretary shall establish, within the farm ownership loan program established under this subtitle, a program under which loans shall be made under this section to qualified beginning farmers and ranchers for down payments on farm ownership loans.

“(2) **ADMINISTRATION.**—The Secretary shall be the primary coordinator of credit supervision for the down payment loan program established under this section, in consultation with

the commercial or cooperative lender and, if applicable, the contracting credit counseling service selected under section 360(c).

**"(b) LOAN TERMS.—**

**"(1) PRINCIPAL.—**Each loan made under this section shall be in an amount equal to 30 percent of the purchase price or appraisal value, whichever is lower, of the farm or ranch to be acquired, unless the borrower requests a lesser amount.

**"(2) INTEREST RATE.—**The interest rate on any loan made by the Secretary under this section shall be 4 percent.

**"(3) DURATION.—**Each loan under this section shall be made for a period of 10 years or less, at the option of the borrower.

**"(4) REPAYMENT.—**Each borrower of a loan under this section shall repay the loan to the Secretary in equal annual installments.

**"(5) NATURE OF RETAINED SECURITY INTEREST.—**The Secretary shall retain an interest in each farm or ranch acquired with a loan made under this section that shall—

**"(A)** be secured by the farm or ranch;

**"(B)** be junior only to such interests in the farm or ranch as may be conveyed at the time of acquisition to the person (including a lender) from whom the borrower obtained a loan used to acquire the farm or ranch; and

**"(C)** require the borrower to obtain the permission of the Secretary before the borrower may grant an additional security interest in the farm or ranch.

**"(c) LIMITATIONS.—**

**"(1) BORROWERS REQUIRED TO MAKE MINIMUM DOWN PAYMENT.—**The Secretary shall not make a loan under this section to any borrower with respect to a farm or ranch if the contribution of the borrower to the down payment on the farm or ranch will be less than 10 percent of the purchase price of the farm or ranch.

**"(2) MAXIMUM PRICE OF PROPERTY TO BE ACQUIRED.—**The Secretary shall not make a loan under this section with respect to a farm or ranch for which the purchase price or appraisal value, whichever is lower, exceeds \$250,000.

**"(3) PROHIBITED TYPES OF FINANCING.—**The Secretary shall not make a loan under this section with respect to a farm or ranch if the farm or ranch is to be acquired with other financing that contains any of the following conditions:

**"(A)** The financing is to be amortized over a period of less than 30 years.

**"(B)** A balloon payment will be due on the financing during the 10-year period beginning on the date the loan is to be made by the Secretary.

**"(d) ADMINISTRATION.—**In carrying out this section, the Secretary shall, to the maximum extent practicable—

**"(1)** facilitate the transfer of farms and ranches from retiring farmers and ranchers to persons eligible for insured loans under this subtitle;

**"(2)** make efforts to widely publicize the availability of loans under this section among—

**"(A)** potentially eligible recipients of the loans;

**"(B)** retiring farmers and ranchers; and

**"(C)** applicants for farm ownership loans under this subtitle;

Public  
information.

"(3) encourage retiring farmers and ranchers to assist in the sale of their farms and ranches to qualified beginning farmers and ranchers by providing seller financing; and

"(4) coordinate the loan program established by this section with State programs that provide farm ownership or operating loans for beginning farmers and ranchers."

(b) AVAILABILITY OF FARM OWNERSHIP LOANS AND LOAN GUARANTEES FOR CERTAIN BEGINNING FARMERS AND RANCHERS.—Subtitle A (7 U.S.C. 1922 et seq.) (as amended by subsection (a) of this section) is further amended by adding at the end the following new section:

7 USC 1936.

**"SEC. 310F. AVAILABILITY OF FARM OWNERSHIP LOANS AND LOAN GUARANTEES FOR CERTAIN QUALIFIED BEGINNING FARMERS AND RANCHERS.**

"(a) ASSISTANCE PROHIBITED FOR A LIMITED PERIOD.—Except as otherwise provided in this section, if the Secretary approves the application of a qualified beginning farmer or rancher (referred to in this section as the 'applicant') for assistance under section 318, the Secretary shall not make a loan under this subtitle to the applicant or provide a guarantee under section 309(h) with respect to any farm real estate loan made to the applicant.

"(b) AVAILABILITY OF DOWN PAYMENT LOANS.—After the applicable period, the Secretary may make an insured loan under this subtitle, or a down payment loan under section 310E, to an applicant if—

"(1) throughout the applicable period, the applicant conducted an operation for which assistance is provided under section 318 in accordance with the plan for special assistance; and

"(2) the applicant is otherwise eligible for the loan.

"(c) AVAILABILITY OF LOAN GUARANTEES.—After the applicable period, the Secretary may guarantee under section 309(h) the repayment of a commercial or cooperative loan made to an applicant referred to in subsection (a) if—

"(1) throughout the applicable period, the applicant conducted the operation for which assistance is provided under section 318 in accordance with the plan for special assistance; and

"(2) the applicant is otherwise eligible for the loan guarantee.

"(d) APPLICABLE PERIOD DEFINED.—As used in this section, the term 'applicable period' means the first 5 years for which an applicant has operated a farm or ranch, including the period of time the applicant is provided assistance under section 318."

**SEC. 8. SPECIAL ASSISTANCE TO CERTAIN QUALIFIED BEGINNING FARMERS AND RANCHERS.**

Subtitle B (7 U.S.C. 1941 et seq.) is amended by adding at the end the following new section:

7 USC 1948.

**"SEC. 318. SPECIAL ASSISTANCE TO CERTAIN QUALIFIED BEGINNING FARMERS AND RANCHERS.**

"(a) IN GENERAL.—The Secretary shall provide special assistance in accordance with this section to enable a qualified beginning farmer or rancher who has not operated a farm or ranch, or who has operated a farm or ranch for not more than 5 years (referred



to in this section as the 'applicant'), to conduct viable farming or ranching operations.

**"(b) SUBMISSION OF PLAN OF FARM OPERATION.**—An applicant who desires to apply for special assistance under this section shall submit a plan, in coordination with activities conducted under sections 359, 360, 361, and 362, that—

**"(1)** describes, for each of the first 5 years for which assistance under this section is sought for the operation—

**"(A)** how the operation is to be conducted;

**"(B)** the types and quantities of commodities to be produced by the operation;

**"(C)** the production methods and practices to be employed by the operation;

**"(D)** the conservation measures to be taken in the operation;

**"(E)** the equipment needed to conduct the operation (including any expected replacements for the equipment) and, with respect to each item of needed equipment, whether the applicant owns, leases, or otherwise has access to the item, or proposes to purchase, lease, or otherwise gain access to the item;

**"(F)** the expected income and expenses of the operation;

**"(G)** the expected credit needs of the operation, including the types and amounts of assistance to be sought under this section; and

**"(H)** the site or sites at which the operation is (or is to be) located; and

**"(2)** projects the financial status of the operation after assistance under this section has been provided for a period of not more than 10 years, consistent with section 319, as is necessary for the operation to become financially viable without further assistance from the Secretary, including specific goals that the applicant projects to meet in order to progress toward graduation as expeditiously as possible.

**"(c) DETERMINATIONS BY THE COUNTY COMMITTEE; APPROVAL OF PLAN.**—The county committee shall approve a plan submitted by an applicant in accordance with subsection (b) if the county committee determines that—

**"(1)** the applicant has not operated a farm or ranch, or has operated a farm or ranch for not more than 5 years;

**"(2)** during the 5-year period ending with the submission of the plan, the applicant has had sufficient education and experience to indicate that the applicant is able to conduct a successful farming or ranching operation, as the case may be;

**"(3)** the applicant owns, leases, or has a commitment to have leased to the applicant the site or sites of the operation;

**"(4)** there is, or will be, available to the applicant equipment sufficient to conduct the operation in accordance with the plan;

**"(5)** the applicant agrees to participate in such loan assessment, borrower training, and financial management programs as the Secretary may require; and

**"(6)** the applicant is otherwise eligible for assistance under this title.

**"(d) DETERMINATION BY THE SECRETARY; APPROVAL OF APPLICATION FOR ASSISTANCE.**—The Secretary shall approve an application for assistance under this section for an operation described in

a plan approved by a county committee under this section if the Secretary determines that—

“(1) the operation would generate income sufficient to cover the expenses of the operation, debt service, and adequate living expenses of the applicant, to the extent that other income would not cover the living expenses, if the operation received assistance under this section as provided for in the plan; and

“(2) during the commitment period established in accordance with subsection (e)(1), the operation will be financially viable without further assistance from the Secretary and the identified goals are reasonable and practicable.

“(e) PROVISION OF ASSISTANCE.—

“(1) DETERMINATION OF COMMITMENT PERIOD.—

“(A) INITIAL DETERMINATION.—In approving an application under subsection (d), the Secretary shall, subject to subparagraph (C), determine the period during which assistance under this section is to be provided for the operation described in the application (referred to in this subsection as the ‘commitment period’).

“(B) AUTHORITY TO EXTEND PERIOD; NO AUTHORITY TO REDUCE PERIOD.—At any time, the Secretary may, subject to subparagraph (C) and subsections (f) and (g), extend the duration of the commitment period. The Secretary shall not reduce the duration of the commitment period.

“(C) LIMITATIONS.—

“(i) IN GENERAL.—The duration of any commitment period (including any extensions of the period) shall not exceed 10 years and shall be consistent with section 319.

“(ii) ELIGIBILITY FOR INSURED OPERATING LOANS.—During the commitment period, an applicant shall not be eligible to receive an insured operating loan under this section after the date that is 8 years after the date on which the applicant first receives assistance under this section.

“(2) OPERATING LOANS; LOAN GUARANTEES.—

“(A) IN GENERAL.—To the extent that an applicant whose application is approved under subsection (d) is unable to obtain sufficient credit from commercial or cooperative lenders to finance the operation described in the application at reasonable rates and terms (taking into consideration prevailing private and cooperative rates, and terms in the community in which the operation is (or is to be) located, for loans for similar purposes and periods of time), the Secretary shall, subject to the availability of funds and to subsections (f) and (g) and consistent with sections 360 and 362, make a conditional commitment to the applicant for each of the years of the commitment period—

“(i) to provide to any commercial or cooperative lender who makes a loan to the applicant that is within the credit needs of the operation (as specified in the plan contained in the application) a guarantee under section 309(h) for the repayment of 90 percent of the loan principal and interest;

“(ii)(I) to provide to any commercial or cooperative lender who makes a loan to the applicant that is within

the credit needs of the operation (as specified in the plan contained in the application) a guarantee under section 309(h) for the repayment of 90 percent of the loan principal and interest and an interest subsidy payment in the amount necessary to ensure that the applicant qualifies for such a loan but not more than the amount of interest assistance allowed by section 351; or

“(II) if during any of the first 4 years for which assistance is provided under this section the Secretary determines that the applicant will not qualify for a loan described in subclause (I), an interest subsidy payment sufficient to ensure that the effective rate of interest payable by the applicant on the loan equals the rate of interest charged to low income, limited resource borrowers on insured operating loans made under this subtitle that are of comparable size and maturity; or

“(iii) to make an insured loan under this subtitle to the applicant, in the amount specified in the plan contained in the application, at an interest rate that is no higher than the interest rate charged to regular borrowers and no lower than the interest rate charged to low income, limited resource borrowers under this subtitle.

“(3) **LOANS OR GUARANTEES FOR NEW OR IMPROVED EQUIPMENT.**—The Secretary shall make a commitment to any applicant whose application is approved under subsection (d) to provide the applicant with loans under this subtitle or loan guarantees under section 309(h) to finance the acquisition, improvement, or repair of equipment needed in the operation described in the application if the plan contained in the application provides for the commitment, to the extent that the applicant is unable to obtain sufficient credit from commercial or cooperative lenders for such purposes at reasonable rates and terms (taking into consideration prevailing private and cooperative rates and terms in the community in which the operation is, or is to be, located, for loans for similar purposes and periods of time).

“(4) **PRIORITY IN PURCHASE OF INVENTORY EQUIPMENT; LOANS OR GUARANTEES FOR THE PURCHASES IN CERTAIN CASES.**—During the commitment period, the Secretary shall—

“(A) accord the applicant whose application is approved under subsection (d) priority for the purchase of equipment in the inventory of the Farmers Home Administration necessary for the success of the operation described in the application; and

“(B) provide the applicant with loans under this subtitle or loan guarantees under section 309(h) to finance the purchases if the plan contained in the application provides for the assistance, to the extent that the applicant is unable to obtain sufficient credit from commercial or cooperative lenders for such purpose at reasonable rates and terms (taking into consideration prevailing private and cooperative rates, and terms in the community in which the operation is, or is to be, located, for loans for similar purposes and periods of time).

"(5) OTHER KINDS OF ASSISTANCE.—During the commitment period, the Farmers Home Administration, the Extension Service, the Soil Conservation Service, and the other entities of the Department of Agriculture shall provide the applicant with such other assistance and information as may be needed in developing and implementing the operation described in the application.

"(6) FEES.—

"(A) SECRETARY.—The Secretary shall not charge a fee to any person (including a lender) in connection with any loan guarantee provided in accordance with this section.

"(B) LENDER.—A lender may charge a loan origination and servicing fee in connection with a loan or loan guarantee provided in accordance with this section in an amount not to exceed 1 percent of the amount of the loan.

"(f) ANNUAL PLAN REVISIONS REQUIRED AS CONDITION OF CONTINUED ASSISTANCE.—The Secretary shall not provide assistance under this section for an operation for any particular year after the first year for which the assistance is provided, unless—

"(1) not later than 60 days before the assistance is to be first provided for the particular year, the plan describing the operation has been revised, pursuant to section 360, based on the experience of the year preceding the particular year, to provide the information required by subsection (b) for the 5-year period beginning with the particular year (or, if shorter, the period beginning with the particular year and ending with the year in which the plan projects the operation as becoming financially viable); and

"(2) the Secretary has approved the revised plan.

"(g) EFFECTS OF AVOIDABLE FAILURE TO ACHIEVE GOALS.—

"(1) TERMINATION OF COMMITMENTS.—The Secretary shall revoke commitment for assistance made to an applicant under this section if the operation of the applicant fails, for 2 consecutive years, to meet the goals specified in the plan, unless the failure has not materially reduced the likelihood of the operation becoming financially viable and is due to circumstances beyond the control of the applicant.

"(2) SUSPENSION OF ELIGIBILITY FOR ASSISTANCE.—During the 3-year period that begins with the date a commitment made to an applicant is revoked under paragraph (1), the applicant shall not be eligible for assistance under this section."

**SEC. 9. GRADUATION OF BORROWERS WITH OPERATING LOANS OR GUARANTEES TO PRIVATE COMMERCIAL CREDIT.**

Subtitle B (7 U.S.C. 1941 et seq.) (as amended by section 8 of this Act) is further amended by adding at the end the following new section:

7 USC 1949.

**"SEC. 319. GRADUATION OF BORROWERS WITH OPERATING LOANS OR GUARANTEES TO PRIVATE COMMERCIAL CREDIT.**

"(a) GRADUATION PLAN.—The Secretary shall establish a plan, in coordination with activities under sections 359, 360, 361, and 362, to encourage each borrower with an outstanding loan under this subtitle or with respect to whom there is an outstanding guarantee under this subtitle to graduate to private commercial or other sources of credit.

**“(b) LIMITATION ON PERIOD FOR WHICH BORROWERS ARE ELIGIBLE FOR ASSISTANCE UNDER THIS SUBTITLE.—**Notwithstanding any other provision of this subtitle:

**“(1) GENERAL RULE.—**Except as provided in paragraph (2), the Secretary shall not—

**“(A) make a loan to a borrower under this subtitle for any year after the 10th year for which such a loan is made to the borrower; or**

**“(B) guarantee for any year a loan made to a borrower for a purpose specified in this subtitle, after the 15th year for which loans under this subtitle are made to, or such a guarantee is provided with respect to, the borrower.**

**“(2) TRANSITION RULE.—**If, as of the date of enactment of this section, the Secretary has made a loan to a borrower under this subtitle for 5 or more years, or has provided a guarantee for 10 or more years with respect to one or more loans made to the borrower for a purpose specified in this subtitle, the Secretary shall not make a loan to the borrower under this subtitle, or provide such a guarantee with respect to a loan made to the borrower for a purpose specified in this subtitle, after the 5th year occurring after the date of enactment for which a loan is made under this subtitle to, or such a guarantee is provided with respect to, the borrower.”.

**SEC. 10. CONSIDERATION OF BORROWERS FOR LOAN SERVICE PROGRAMS.**

The first sentence of section 331D(e) (7 U.S.C. 1981d(e)) is amended by inserting after “not later than 60 days after receipt of the notice required in this section” the following: “or, in extraordinary circumstances as determined by the applicable State director, after the 60-day period”.

**SEC. 11. TIME PERIOD WITHIN WHICH COUNTY COMMITTEE IS REQUIRED TO MEET TO CONSIDER APPLICATIONS FOR FARM OWNERSHIP AND OPERATING LOANS AND GUARANTEES AND BEGINNING FARMER PLANS.**

Section 332 (7 U.S.C. 1982) is amended—

(1) in subsection (c), by striking “The committee” and inserting “Subject to subsection (e), the committee”; and

(2) by adding at the end the following new subsection:

**“(e) The county committee shall meet to consider approval of an application received by the committee for a loan under this title, a guarantee under section 309(h), or a plan of farm operation under section 318, not later than—**

**“(1) 5 days after receipt of the application if at the time of the receipt there is at least one other such application or plan pending; or**

**“(2) 15 days after receipt of the application if at the time of the receipt there are no other such applications or plans pending.”.**

**SEC. 12. INCREASE IN PERIOD DURING WHICH COUNTY COMMITTEE LOAN ELIGIBILITY CERTIFICATION CONTINUES IN EFFECT.**

Section 333(2)(A)(iii) (7 U.S.C. 1983(2)(A)(iii)) is amended by striking “2 years” and inserting “5 years”.

**SEC. 13. PROCESSING OF APPLICATIONS FOR FARM OPERATING LOANS.**

Section 333A(a)(2) (7 U.S.C. 1983a(a)(2)) is amended—

(1) by inserting "(A)" after "(2)";

(2) by inserting "(other than under subtitle B)" after "under this title"; and

(3) by adding at the end the following new subparagraph:

"(B)(i) Not later than 10 calendar days after the Secretary receives an application for an operating loan or loan guarantee under subtitle B, the Secretary shall notify the applicant of any information required before a decision may be made on the application. On receipt of an application, the Secretary shall request from other parties such information as may be needed in connection with the application.

"(ii) Not later than 15 calendar days after the date an agency of the Department of Agriculture receives a request for information made pursuant to clause (i), the agency shall provide the Secretary with the requested information.

"(iii) If, not later than 20 calendar days after the date a request is made pursuant to clause (i) with respect to an application, the Secretary has not received the information requested, the Secretary shall notify the applicant and the district office of the Farmers Home Administration, in writing, of the outstanding information.

"(iv) A county office shall notify the district office of the Farmers Home Administration of each application for an operating loan or loan guarantee under subtitle B that is pending more than 45 days after receipt, and the reasons the application is pending.

"(v) A district office that receives a notice provided under clause (iv) with respect to an application shall immediately take steps to ensure that final action is taken on the application not later than 15 days after the date of the receipt of the notice.

"(vi) The district office shall report to the State office of the Farmers Home Administration on each application for an operating loan or loan guarantee under subtitle B that is pending more than 45 days after receipt by the county committee, and the reasons the application is pending.

"(vii) Each month, the Secretary shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, on a State-by-State basis, as to each application for an operating loan or loan guarantee under subtitle B on which final action had not been taken within 60 calendar days after receipt by the Secretary, and the reasons final action had not been taken."

**SEC. 14. GRADUATION OF SEASONED DIRECT LOAN BORROWERS TO THE LOAN GUARANTEE PROGRAM.**

Section 333A (7 U.S.C. 1983a) is amended by adding at the end the following new subsection:

"(f)(1) As used in this subsection:

"(A) The term 'approved lender' means a lender approved prior to the date of enactment of this subsection by the Secretary under the approved lender program established by exhibit A to subpart B of part 1980 of title 7, Code of Federal Regulations (as in effect on January 1, 1991), or a lender certified under section 114.

"(B) The term 'seasoned direct loan borrower' means a borrower receiving a direct loan under this title who has been

Reports.

classified as 'commercial' or 'standard' under subpart W of part 2006 of the Instruction Manual (as in effect on January 1, 1991).

"(2) The Secretary, or a contracting third party, shall annually review under section 360 the loans of each seasoned loan borrower. If, based on the review, it is determined that a borrower would be able to obtain a loan, guaranteed by the Secretary, from a commercial or cooperative lender at reasonable rates and terms for loans for similar purposes and periods of time, the Secretary shall assist the borrower in applying for the commercial or cooperative loan.

"(3) In accordance with section 362, the Secretary shall prepare a prospectus on each seasoned direct loan borrower determined eligible to obtain a guaranteed loan. The prospectus shall contain a description of the amounts of loan guarantee and interest assistance that the Secretary will provide to the seasoned direct loan borrower to enable the seasoned direct loan borrower to carry out a financially viable farming plan if a guaranteed loan is made.

"(4) With the approval of the borrower, the Secretary shall provide the prospectus of the seasoned direct loan borrower to each approved lender whose lending area includes the location of the seasoned direct loan borrower. If the Secretary receives an offer from an approved lender to extend credit to the seasoned direct loan borrower under terms and conditions contained in the prospectus, the seasoned direct loan borrower shall not be eligible for an insured loan from the Secretary under subtitle A or B, except as otherwise provided in this subsection.

"(5) If the Secretary is unable to provide loan guarantees and, if necessary, interest assistance to the seasoned direct loan borrower under this subsection in amounts sufficient to enable the seasoned direct loan borrower to borrow from commercial sources the amount required to carry out a financially viable farming plan, or if the Secretary does not receive an offer from an approved lender to extend credit to a seasoned direct loan borrower under the terms and conditions contained in the prospectus, the Secretary shall make an insured loan to the seasoned direct loan borrower under subtitle A or B, whichever is applicable.

"(6) To the extent necessary for the borrower to obtain a loan, guaranteed by the Secretary, from a commercial or cooperative lender, the Secretary shall provide interest rate reductions as provided for under section 351."

**SEC. 15. SIMPLIFIED APPLICATION FOR GUARANTEED LOANS OF \$50,000 OR LESS.**

Section 333A (7 U.S.C. 1983a) (as amended by section 14 of this Act) is further amended by adding at the end the following new subsection:

"(g)(1) The Secretary shall provide to lenders a short, simplified application form for guarantees under this title of loans the principal amount of which is \$50,000 or less.

"(2) In developing the application, the Secretary shall—

"(A) consult with commercial and cooperative lenders; and

"(B) ensure that—

"(i) the form can be completed manually or electronically, at the option of the lender;

"(ii) the form minimizes the documentation required to accompany the form;

“(iii) the cost of completing and processing the form is minimal; and

“(iv) the form can be completed and processed in an expeditious manner.”.

#### **SEC. 16. INVENTORY LEASE OR LEASE WITH OPTION TO PURCHASE.**

The fourth sentence of section 335(c)(1) (7 U.S.C. 1985(c)(1)) is amended—

(1) by inserting “(A)” after “shall be”; and

(2) by inserting before the period at the end the following: “or (B) leased to persons eligible for assistance under the provisions of any law administered by the Farmers Home Administration or the Rural Development Administration under an annual lease or a lease with an option to purchase, with a preference for sale”.

#### **SEC. 17. TRANSFER OF INDIAN LANDS PLEDGED AS COLLATERAL FOR FmHA LOANS.**

Section 335(e)(1) (7 U.S.C. 1985(e)(1)) is amended—

(1) in subparagraph (D)(i), by striking “If” and inserting “Except as provided in subparagraph (G), if”; and

(2) by adding at the end the following new subparagraph: “(G)(i) If—

“(I) the real property described in subparagraph (A)(i) is located within an Indian reservation;

“(II) the borrower-owner is an Indian tribe that has jurisdiction over the reservation in which the real property is located or the borrower-owner is a member of an Indian tribe;

“(III) the borrower-owner has obtained a loan made, insured, or guaranteed under this title; and

“(IV) the borrower-owner and the Secretary have exhausted all of the procedures provided for in this title to permit a borrower-owner to retain title to the real property, such that it is necessary for the borrower-owner to relinquish title, the Secretary shall dispose of or administer the property only as provided in subparagraph (D), as modified by this subparagraph.

“(ii) The Secretary shall provide the borrower-owner of real property that is described in clause (i) with written notice of—

“(I) the right of the borrower-owner to voluntarily convey the real property to the Secretary; and

“(II) the fact that real property so conveyed will be placed in the inventory of the Secretary.

“(iii) The Secretary shall provide the borrower-owner of the real property with written notice of the rights and protections provided under this title to the borrower-owner, and the Indian tribe that has jurisdiction over the reservation in which the real property is located, from foreclosure or liquidation of the real property, including written notice of—

“(I) the provisions of subparagraphs (C)(i), (C)(ii), and (D), this subparagraph, and subsection (g)(6);

“(II) if the borrower-owner does not voluntarily convey the real property to the Secretary, that—

“(aa) the Secretary may foreclose on the property;

“(bb) in the event of foreclosure, the property will be offered for sale;

“(cc) the Secretary must offer a bid for the property that is equal to the fair market value of the property



or the outstanding principal and interest of the loan, whichever is higher;

“(dd) the property may be purchased by another party; and

“(ee) if the property is purchased by another party, the property will not be placed in the inventory of the Secretary and the borrower-owner will forfeit the rights and protections provided under this title; and

“(III) the opportunity of the borrower-owner to consult with the Indian tribe that has jurisdiction over the reservation in which the real property is located or counsel to determine if State or tribal law provides rights and protections that are more beneficial than those provided the borrower-owner under this title.

“(iv)(I) Except as provided in subclause (II), the Secretary shall accept the voluntary conveyance of real property described in clause (i).

“(II) If a hazardous substance (as defined in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(14))) is located on the property and the Secretary takes remedial action to protect human health or the environment if the property is taken into inventory, the Secretary shall accept the voluntary conveyance of the property only if the Secretary determines that it is in the best interests of the Federal Government.

“(v) If a borrower-owner does not voluntarily convey to the Secretary real property described in clause (i), at least 30 days before a foreclosure sale of the property, the Secretary shall provide written notice to the Indian tribe that has jurisdiction over the reservation in which the real property is located of—

“(I) the sale;

“(II) the fair market value of the property; and

“(III) the requirements of this subparagraph.

“(vi)(I) Except as provided in subclause (II), at a foreclosure sale of real property described in clause (i), the Secretary shall offer a bid for the property that is equal to the higher of—

“(aa) the fair market value of the property; or

“(bb) the outstanding principal and interest of the loan.

“(II) If a hazardous substance (as defined in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(14))) is located on the property and the Secretary takes remedial action to protect human health or the environment if the property is taken into inventory, subclause (I) shall apply only if the Secretary determines that it is in the best interests of the Federal Government.”.

#### **SEC. 18. DEBT SERVICE MARGIN REQUIREMENTS; CERTIFIED LENDERS PROGRAM.**

Section 339 (7 U.S.C. 1989) is amended—

(1) by striking “SEC. 339. The” and inserting the following:

#### **“SEC. 339. RULES AND REGULATIONS.**

“(a) IN GENERAL.—The”; and

(2) by adding at the end the following new subsections:

“(b) DEBT SERVICE MARGIN REQUIREMENTS.—Notwithstanding subsection (a), in providing farmer program loan guarantees under this title, the Secretary shall consider the income of the borrower

adequate if the income is equal to or greater than the income necessary—

“(1) to make principal and interest payments on all debt obligations of the borrower, in a timely manner;

“(2) to cover the necessary living expenses of the family of the borrower; and

“(3) to pay all other obligations and expenses of the borrower not financed through debt obligations referred to in paragraph (1), including expenses of replacing capital items (determined after taking into account depreciation of the items).

“(c) CERTIFIED LENDERS PROGRAM.—

“(1) IN GENERAL.—The Secretary shall establish a program under which the Secretary shall guarantee loans for any purpose specified in subtitle B that are made by lending institutions certified by the Secretary.

“(2) CERTIFICATION REQUIREMENTS.—The Secretary shall certify a lending institution that meets such criteria as the Secretary may prescribe in regulations, including the ability of the institution to properly make, service, and liquidate the loans of the institution.

“(3) CONDITION OF CERTIFICATION.—As a condition of the certification, the Secretary shall require the institution to undertake to service the loans guaranteed by the Secretary under this subsection, using standards that are not less stringent than generally accepted banking standards concerning loan servicing employed by prudent commercial or cooperative lenders. The Secretary shall, at least annually, monitor the performance of each certified lender to ensure that the conditions of the certification are being met.

“(4) EFFECT OF CERTIFICATION.—Notwithstanding any other provision of law:

“(A) The Secretary shall guarantee 80 percent of a loan made under this subsection by a certified lending institution as described in paragraph (1), subject to county committee certification that the borrower of the loan meets the eligibility requirements and such other criteria as may be applicable to loans guaranteed by the Secretary under other provisions of this title.

“(B) With respect to loans to be guaranteed by the Secretary under this subsection, the Secretary shall permit certified lending institutions to make appropriate certifications (as provided by regulations issued by the Secretary)—

“(i) relating to issues such as creditworthiness, repayment ability, adequacy of collateral, and feasibility of farm operation; and

“(ii) that the borrower is in compliance with all requirements of law, including regulations issued by the Secretary.

“(C) The Secretary shall approve or disapprove a guarantee not later than 14 calendar days after the date that the lending institution applied to the Secretary for the guarantee. If the Secretary rejects the loan application within the 14-day period, the Secretary shall state, in writing, all of the reasons the application was rejected.

“(5) RELATIONSHIP TO OTHER REQUIREMENTS.—Neither this subsection nor subsection (d) shall affect the responsibility of

the Secretary to certify eligibility, review financial information, and otherwise assess an application.

**"(d) PREFERRED CERTIFIED LENDERS PROGRAM.—**

**"(1) IN GENERAL.—**Commencing not later than two years after the date of enactment of the Agricultural Credit Improvement Act of 1992, the Secretary shall establish a Preferred Certified Lenders Program for lenders who establish their—

**"(A)** knowledge of, and experience under, the program established under subsection (c);

**"(B)** knowledge of the regulations concerning the guaranteed loan program; and

**"(C)** proficiency related to the certified lender program requirements.

The Secretary shall certify any lending institution as a Preferred Certified Lender that meets such criteria as the Secretary may prescribe by regulation.

**"(2) REVOCATION OF DESIGNATION.—**The designation of a lender as a Preferred Certified Lender shall be revoked at any time that the Secretary determines that such lender is not adhering to the rules and regulations applicable to the program or if the loss experiences of a Preferred Certified Lender are excessive as compared to other Preferred Certified Lenders, except that such suspension or revocation shall not affect any outstanding guarantee.

**"(3) CONDITION OF CERTIFICATION.—**As a condition of such preferred certification, the Secretary shall require the institution to undertake to service the loans guaranteed by the Secretary under this subsection using generally accepted banking standards concerning loan servicing employed by prudent commercial or cooperative lenders. The Secretary shall, at least annually, monitor the performance of each preferred certified lender to ensure that the conditions of such certification are being met.

**"(4) EFFECT OF PREFERRED LENDER CERTIFICATION.—**Notwithstanding any other provision of law, the Secretary shall—

**"(A)** guarantee 80 percent of an approved loan made by a certified lending institution as described in this subsection, subject to county committee certification that the borrower meets the eligibility requirements or such other criteria as may be applicable to loans guaranteed by the Secretary under other provisions of this title;

**"(B)** permit certified lending institutions to make all decisions, with respect to loans to be guaranteed by the Secretary under this subsection relating to credit worthiness, the closing, monitoring, collection and liquidation of loans, and to accept appropriate certifications, as provided by regulations issued by the Secretary, that the borrower is in compliance with all requirements of law or regulations promulgated by the Secretary; and

**"(C)** be deemed to have guaranteed 80 percent of a loan made by a preferred certified lending institution as described in paragraph (1), if the Secretary fails to approve or reject the application of such institution within 14 calendar days after the date that the lending institution presented the application to the Secretary. If the Secretary rejects the application within the 14-day period, the Sec-

retary shall state, in writing, the reasons the application was rejected.”.

**SEC. 19. DEFINITION OF QUALIFIED BEGINNING FARMER OR RANCHER.**

Section 343(a) (7 U.S.C. 1991(a)) is amended—

(1) by striking “this title (1) the term” and all that follows through “fish farming,” at the end of paragraph (1) and inserting “this title:

“(1) The term ‘farmer’ includes a person who is engaged in, or who, with assistance afforded under this title, intends to engage in, fish farming.”;

(2) by indenting, and aligning the margins of, paragraphs (2) through (10) so as to align with paragraph (1) (as amended by paragraph (1));

(3) by striking “the” the first place it appears in each of such paragraphs and inserting “The”;

(4) by striking the comma at the end of each of paragraphs (2) through (8) and inserting a period;

(5) by striking “, and” at the end of paragraph (9) and inserting a period; and

(6) by adding at the end the following new paragraph:

“(11) The term ‘qualified beginning farmer or rancher’ means an applicant—

“(A) who is eligible for assistance under this title;

“(B) who has not operated a farm or ranch, or who has operated a farm or ranch for not more than 10 years;

“(C) in the case of a cooperative, corporation, partnership, or joint operation, who has members, stockholders, partners, or joint operators who are all related to one another by blood or marriage;

“(D)(i) in the case of an owner and operator of a farm or ranch, who—

“(I) in the case of a loan made to an individual, individually or with the immediate family of the applicant—

“(aa) materially and substantially participates in the operation of the farm or ranch; and

“(bb) provides substantial day-to-day labor and management of the farm or ranch, consistent with the practices in the State or county in which the farm or ranch is located; or

“(II)(aa) in the case of a loan made to a cooperative, corporation, partnership, or joint operation, has members, stockholders, partners, or joint operators, materially and substantially participate in the operation of the farm or ranch; and

“(bb) in the case of a loan made to a corporation, has stockholders, all of whom are qualified beginning farmers or ranchers; and

“(ii) in the case of an applicant seeking to own and operate a farm or ranch, who—

“(I) in the case of a loan made to an individual, individually or with the immediate family of the applicant, will—

“(aa) materially and substantially participate in the operation of the farm or ranch; and

“(bb) provide substantial day-to-day labor and management of the farm or ranch, consistent with the practices in the State or county in which the farm or ranch is located; or

“(II)(aa) in the case of a loan made to a cooperative, corporation, partnership, or joint operation, will have members, stockholders, partners, or joint operators, materially and substantially participate in the operation of the farm or ranch; and

“(bb) in the case of a loan made to a corporation, has stockholders, all of whom are qualified beginning farmers or ranchers;

“(E) who agrees to participate in such loan assessment, borrower training, and financial management programs as the Secretary may require;

“(F) who does not own land or who, directly or through interests in family farm corporations, owns land, the aggregate acreage of which does not exceed 15 percent of the median acreage of the farms or ranches, as the case may be, in the county in which the farm or ranch operations of the applicant are located, as reported in the most recent census of agriculture taken under section 142 of title 13, United States Code; and

“(G) who demonstrates that the available resources of the applicant and spouse (if any) of the applicant are not sufficient to enable the applicant to continue farming or ranching on a viable scale.”.

#### SEC. 20. TARGETING OF FUNDS.

(a) FARM OPERATING LOANS FOR BEGINNING FARMERS AND RANCHERS.—Section 346(b) (7 U.S.C. 1994(b)) is amended by adding at the end the following new paragraph:

“(5)(A) In expending funds available for insured operating loans under subtitle B, including loans made under section 318—

“(i) during the first 6 months of fiscal year 1994, the Secretary shall reserve not less than 30 percent of the funds available for the fiscal year to make insured operating loans to qualified beginning farmers or ranchers;

“(ii) during the first 6 months of each of fiscal years 1995 and 1996, the Secretary shall reserve not less than 40 percent of the funds available for the fiscal year to make insured operating loans to qualified beginning farmers or ranchers; and

“(iii) during the first 6 months of each of fiscal years 1997 and thereafter, the Secretary may reserve not more than 50 percent of the funds available for the fiscal year to make insured operating loans to qualified beginning farmers or ranchers.

“(B) In each fiscal year described in subparagraph (A), with regard to the funds not reserved under subparagraph (A), a qualified beginning farmer or rancher may apply for insured operating loans, but shall not receive any preference as a result of status as a qualified beginning farmer or rancher.”.

(b) PORTIONS OF FARM OWNERSHIP LOAN GUARANTEE FUNDS TARGETED TO BEGINNING FARMERS OR RANCHERS.—Section 346(b)(2) (7 U.S.C. 1994(b)(2)) is amended by adding at the end the following new sentence: “Not less than 25 percent of the amounts appro-

prated for guarantees of farm ownership loans for each of the fiscal years 1994, 1995, 1996, and 1997 shall be reserved by the Secretary during the first 6 months of the respective fiscal year for guarantees of farm ownership loans to beginning farmers or ranchers.”

(c) FARM OWNERSHIP LOANS.—

(1) PERCENTAGE OF INSURED FARM OWNERSHIP LOAN FUNDS RESERVED FOR BEGINNING FARMERS OR RANCHERS.—Section 346(b)(3) is amended by adding at the end the following new subparagraph:

7 USC 1994.

“(D) To the extent that it is not inconsistent with an exercise of authority under section 355, in expending funds available for insured farm ownership loans—

“(i) during fiscal year 1994, the Secretary shall reserve not less than 55 percent of the funds available for the fiscal year to make insured farm ownership loans to qualified beginning farmers or ranchers;

“(ii) during fiscal year 1995, the Secretary shall reserve not more than 65 percent of the funds available for the fiscal year to make insured farm ownership loans to qualified beginning farmers or ranchers; and

“(iii) during each of fiscal years 1996 and thereafter, the Secretary may reserve not less than 65 percent and not more than 70 percent of the funds available for the fiscal year to make insured farm ownership loans to qualified beginning farmers or ranchers.”

(2) FUNDS RESERVED FOR DOWN PAYMENT LOAN PROGRAM.—Section 346(b)(3) (as amended by paragraph (1) of this subsection) is further amended by adding at the end the following new subparagraph:

“(E) To the extent that it is not inconsistent with an exercise of authority under section 355, the Secretary shall reserve not less than 60 percent of the amounts reserved for qualified beginning farmers or ranchers under subparagraph (D) for any fiscal year for down payment loans under section 310E.”

(3) CERTAIN UNOBLIGATED DOWN PAYMENT LOAN PROGRAM FUNDS AVAILABLE FOR ANY TYPE OF INSURED FARM OWNERSHIP LOANS FOR BEGINNING FARMERS AND RANCHERS.—Section 346(b)(3) (as amended by paragraph (2) of this subsection) is further amended by adding at the end the following new subparagraph:

“(F) To the extent that it is not inconsistent with an exercise of authority under section 355, to the maximum extent practicable, any funds reserved for down payment loans under section 310E for a fiscal year by reason of subparagraph (E) that are not obligated by the end of the second quarter of the fiscal year shall be available during the third quarter of the fiscal year for any type of insured farm ownership loans to beginning farmers and ranchers.”

(d) INTEREST RATE ASSISTANCE PROGRAM.—Section 346(b)(3) (as amended by subsection (c)(3) of this section) is further amended by adding at the end the following new subparagraph:

“(G) Not less than 40 percent of the amounts available for the interest rate reduction program under section 351 shall be reserved for the first 6 months of each fiscal year for assistance to beginning farmers or ranchers.”

(e) **DOWN PAYMENT LOAN PROGRAM.**—Section 346(b) (as amended by subsection (a) of this section) is further amended by adding at the end the following new paragraph:

“(6) Notwithstanding any other provision of this title, at the end of the third quarter of each fiscal year, the Secretary shall transfer, and use to carry out section 310E, 75 percent of the amount that would otherwise be available for guaranteed operating loans.”.

**SEC. 21. EQUAL ACCESS TO FmHA ASSISTANCE BY GENDER.**

(a) **TARGET PARTICIPATION RATES.**—Section 355(a) (7 U.S.C. 2003(a)) is amended—

(1) in paragraph (2), by striking “In establishing” and inserting “Except as provided in paragraph (3), in establishing”; and

(2) by adding at the end the following new paragraph:

“(3) **GENDER.**—With respect to gender, target participation rates shall take into consideration the number of current and potential socially disadvantaged farmers and ranchers in a State in proportion to the total number of farmers and ranchers in the State.”.

(b) **TARGETING OF LOANS TO MEMBERS OF GROUPS WHOSE MEMBERS HAVE BEEN SUBJECTED TO GENDER PREJUDICE.**—Section 355(e)(1) (7 U.S.C. 2003(e)(1)) is amended by striking “or ethnic” and inserting “, ethnic, or gender”.

(c) **RECORDKEEPING OF LOANS BY BORROWER'S GENDER.**—Sub-title D (7 U.S.C. 1981 et seq.) is amended by adding at the end the following new section:

**“SEC. 369. RECORDKEEPING OF LOANS BY BORROWER'S GENDER.**

7 USC 2008d.

“The Secretary shall classify, by gender, records of applicants for loans and loan guarantees under this title.”.

**SEC. 22. STATE MEDIATION PROGRAMS.**

Section 502 of the Agricultural Credit Act of 1987 (7 U.S.C. 5102) is amended—

(1) in subsection (b)(1), by striking “50” and inserting “70”; and

(2) in subsection (c), by inserting “with respect to which the amount was paid” before the period.

**SEC. 23. REGULATIONS.**

7 USC 1989 note.

(a) **INTERIM REGULATIONS.**—Not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture shall issue such interim regulations as are necessary to implement this Act and the amendments made by this Act.

(b) **FINAL REGULATIONS.**—Not later than October 1, 1993, the Secretary of Agriculture shall issue such final regulations as are necessary to implement this Act and the amendments made by this Act.

**SEC. 24. TECHNICAL AMENDMENT.**

Section 306C(a)(2) is amended to read as follows:

7 USC 1926c.

“(2) **CERTAIN AREAS TARGETED.**—

“(A) **IN GENERAL.**—Loans and grants under paragraph

(1) shall be made only if the loan or grant funds will be used primarily to provide water or waste services, or both, to residents of a county—

“(i) the per capita income of the residents of which is not more than 70 percent of the national average per capita income, as determined by the Department of Commerce; and

“(ii) the unemployment rate of the residents of which is not less than 125 percent of the national average unemployment rate, as determined by the Bureau of Labor Statistics.

“(B) EXCEPTION.—Notwithstanding subparagraph (A), loans and grants under paragraph (1) may also be made if the loan or grant funds will be used primarily to provide water or waste services, or both, to residents of a rural area that was recognized as a colonia as of October 1, 1989.”.

Approved October 28, 1992.

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**LEGISLATIVE HISTORY—H.R. 6129:**

CONGRESSIONAL RECORD, Vol. 138 (1992):

Oct. 4, considered and passed House.

Oct. 8, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):

Oct. 28, Presidential statement.



Public Law 102-555  
102d Congress

An Act

To enable the United States to maintain its leadership in land remote sensing by providing data continuity for the Landsat program, to establish a new national land remote sensing policy, and for other purposes.

Oct. 28, 1992  
[H.R. 6133]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION. 1. SHORT TITLE.**

This Act may be cited as the "Land Remote Sensing Policy Act of 1992".

Land Remote  
Sensing Policy  
Act of 1992.  
National  
defense.  
15 USC 5601  
note.  
15 USC 5601.

**SEC. 2. FINDINGS.**

The Congress finds and declares the following:

(1) The continuous collection and utilization of land remote sensing data from space are of major benefit in studying and understanding human impacts on the global environment, in managing the Earth's natural resources, in carrying out national security functions, and in planning and conducting many other activities of scientific, economic, and social importance.

(2) The Federal Government's Landsat system established the United States as the world leader in land remote sensing technology.

(3) The national interest of the United States lies in maintaining international leadership in satellite land remote sensing and in broadly promoting the beneficial use of remote sensing data.

(4) The cost of Landsat data has impeded the use of such data for scientific purposes, such as for global environmental change research, as well as for other public sector applications.

(5) Given the importance of the Landsat program to the United States, urgent actions, including expedited procurement procedures, are required to ensure data continuity.

(6) Full commercialization of the Landsat program cannot be achieved within the foreseeable future, and thus should not serve as the near-term goal of national policy on land remote sensing; however, commercialization of land remote sensing should remain a long-term goal of United States policy.

(7) Despite the success and importance of the Landsat system, funding and organizational uncertainties over the past several years have placed its future in doubt and have jeopardized United States leadership in land remote sensing.

(8) Recognizing the importance of the Landsat program in helping to meet national and commercial objectives, the President approved, on February 11, 1992, a National Space Policy Directive which was developed by the National Space Council and commits the United States to ensuring the continuity of Landsat coverage into the 21st century.

(9) Because Landsat data are particularly important for national security purposes and global environmental change research, management responsibilities for the program should be transferred from the Department of Commerce to an integrated program management involving the Department of Defense and the National Aeronautics and Space Administration.

(10) Regardless of management responsibilities for the Landsat program, the Nation's broad civilian, national security, commercial, and foreign policy interests in remote sensing will best be served by ensuring that Landsat remains an unclassified program that operates according to the principles of open skies and nondiscriminatory access.

(11) Technological advances aimed at reducing the size and weight of satellite systems hold the potential for dramatic reductions in the cost, and substantial improvements in the capabilities, of future land remote sensing systems, but such technological advances have not been demonstrated for land remote sensing and therefore cannot be relied upon as the sole means of achieving data continuity for the Landsat program.

(12) A technology demonstration program involving advanced remote sensing technologies could serve a vital role in determining the design of a follow-on spacecraft to Landsat 7, while also helping to determine whether such a spacecraft should be funded by the United States Government, by the private sector, or by an international consortium.

(13) To maximize the value of the Landsat program to the American public, unenhanced Landsat 4 through 6 data should be made available, at a minimum, to United States Government agencies, to global environmental change researchers, and to other researchers who are financially supported by the United States Government, at the cost of fulfilling user requests, and unenhanced Landsat 7 data should be made available to all users at the cost of fulfilling user requests.

(14) To stimulate development of the commercial market for unenhanced data and value-added services, the United States Government should adopt a data policy for Landsat 7 which allows competition within the private sector for distribution of unenhanced data and value-added services.

(15) Development of the remote sensing market and the provision of commercial value-added services based on remote sensing data should remain exclusively the function of the private sector.

(16) It is in the best interest of the United States to maintain a permanent, comprehensive Government archive of global Landsat and other land remote sensing data for long-term monitoring and study of the changing global environment.

15 USC 5602.

### SEC. 3. DEFINITIONS.

In this Act, the following definitions apply:

(1) The term "Administrator" means the Administrator of the National Aeronautics and Space Administration.

(2) The term "cost of fulfilling user requests" means the incremental costs associated with providing product generation, reproduction, and distribution of unenhanced data in response to user requests and shall not include any acquisition, amortiza-

tion, or depreciation of capital assets originally paid for by the United States Government or other costs not specifically attributable to fulfilling user requests.

(3) The term "data continuity" means the continued acquisition and availability of unenhanced data which are, from the point of view of the user—

(A) sufficiently consistent (in terms of acquisition geometry, coverage characteristics, and spectral characteristics) with previous Landsat data to allow comparisons for global and regional change detection and characterization; and

(B) compatible with such data and with methods used to receive and process such data.

(4) The term "data preprocessing" may include—

(A) rectification of system and sensor distortions in land remote sensing data as it is received directly from the satellite in preparation for delivery to a user;

(B) registration of such data with respect to features of the Earth; and

(C) calibration of spectral response with respect to such data, but does not include conclusions, manipulations, or calculations derived from such data, or a combination of such data with other data.

(5) The term "land remote sensing" means the collection of data which can be processed into imagery of surface features of the Earth from an unclassified satellite or satellites, other than an operational United States Government weather satellite.

(6) The term "Landsat Program Management" means the integrated program management structure—

(A) established by, and responsible to, the Administrator and the Secretary of Defense pursuant to section 101(a); and

(B) consisting of appropriate officers and employees of the National Aeronautics and Space Administration, the Department of Defense, and any other United States Government agencies the President designates as responsible for the Landsat program.

(7) The term "Landsat system" means Landsats 1, 2, 3, 4, 5, and 6, and any follow-on land remote sensing system operated and owned by the United States Government, along with any related ground equipment, systems, and facilities owned by the United States Government.

(8) The term "Landsat 6 contractor" means the private sector entity which was awarded the contract for spacecraft construction, operations, and data marketing rights for the Landsat 6 spacecraft.

(9) The term "Landsat 7" means the follow-on satellite to Landsat 6.

(10) The term "National Satellite Land Remote Sensing Data Archive" means the archive established by the Secretary of the Interior pursuant to the archival responsibilities defined in section 502.

(11) The term "noncommercial purposes" refers to those activities undertaken by individuals or entities on the condition, upon receipt of unenhanced data, that—

(A) such data shall not be used in connection with any bid for a commercial contract, development of a

commercial product, or any other non-United States Government activity that is expected, or has the potential, to be profitmaking;

(B) the results of such activities are disclosed in a timely and complete fashion in the open technical literature or other method of public release, except when such disclosure by the United States Government or its contractors would adversely affect the national security or foreign policy of the United States or violate a provision of law or regulation; and

(C) such data shall not be distributed in competition with unenhanced data provided by the Landsat 6 contractor.

(12) The term "Secretary" means the Secretary of Commerce.

(13) The term "unenhanced data" means land remote sensing signals or imagery products that are unprocessed or subject only to data preprocessing.

(14) The term "United States Government and its affiliated users" means—

(A) United States Government agencies;

(B) researchers involved with the United States Global Change Research Program and its international counterpart programs; and

(C) other researchers and international entities that have signed with the United States Government a cooperative agreement involving the use of Landsat data for non-commercial purposes.

#### **SEC. 4. REPEAL OF LAND REMOTE-SENSING COMMERCIALIZATION ACT OF 1984.**

The Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4201 et seq.) is repealed.

### **TITLE I—LANDSAT**

15 USC 5611.

#### **SEC. 101. LANDSAT PROGRAM MANAGEMENT.**

(a) **ESTABLISHMENT.**—The Administrator and the Secretary of Defense shall be responsible for management of the Landsat program. Such responsibility shall be carried out by establishing an integrated program management structure for the Landsat system.

(b) **MANAGEMENT PLAN.**—The Administrator, the Secretary of Defense, and any other United States Government official the President designates as responsible for part of the Landsat program, shall establish, through a management plan, the roles, responsibilities, and funding expectations for the Landsat Program of the appropriate United States Government agencies. The management plan shall—

(1) specify that the fundamental goal of the Landsat Program Management is the continuity of unenhanced Landsat data through the acquisition and operation of a Landsat 7 satellite as quickly as practicable which is, at a minimum, functionally equivalent to the Landsat 6 satellite, with the addition of a tracking and data relay satellite communications capability;

(2) include a baseline funding profile that—

(A) is mutually acceptable to the National Aeronautics and Space Administration and the Department of Defense for the period covering the development and operation of Landsat 7; and

(B) provides for total funding responsibility of the National Aeronautics and Space Administration and the Department of Defense, respectively, to be approximately equal to the funding responsibility of the other as spread across the development and operational life of Landsat 7;

(3) specify that any improvements over the Landsat 6 functional equivalent capability for Landsat 7 will be funded by a specific sponsoring agency or agencies, in a manner agreed to by the Landsat Program Management, if the required funding exceeds the baseline funding profile required by paragraph (2), and that additional improvements will be sought only if the improvements will not jeopardize data continuity; and

(4) provide for a technology demonstration program whose objective shall be the demonstration of advanced land remote sensing technologies that may potentially yield a system which is less expensive to build and operate, and more responsive to data users, than is the current Landsat system.

(c) **RESPONSIBILITIES.**—The Landsat Program Management shall be responsible for—

(1) Landsat 7 procurement, launch, and operations;

(2) ensuring that the operation of the Landsat system is responsive to the broad interests of the civilian, national security, commercial, and foreign users of the Landsat system;

(3) ensuring that all unenhanced Landsat data remain unclassified and that, except as provided in section 506 (a) and (b), no restrictions are placed on the availability of unenhanced data;

(4) ensuring that land remote sensing data of high priority locations will be acquired by the Landsat 7 system as required to meet the needs of the United States Global Change Research Program, as established in the Global Change Research Act of 1990, and to meet the needs of national security users;

(5) Landsat data responsibilities pursuant to this Act;

(6) oversight of Landsat contracts entered into under sections 102 and 103;

(7) coordination of a technology demonstration program, pursuant to section 303; and

(8) ensuring that copies of data acquired by the Landsat system are provided to the National Satellite Land Remote Sensing Data Archive.

(d) **AUTHORITY TO CONTRACT.**—The Landsat Program Management may, subject to appropriations and only under the existing contract authority of the United States Government agencies that compose the Landsat Program Management, enter into contracts with the private sector for services such as, but not limited to, satellite operations and data preprocessing.

(e) **LANDSAT ADVISORY PROCESS.**—

(1) **ESTABLISHMENT.**—The Landsat Program Management shall seek impartial advice and comments regarding the status, effectiveness, and operation of the Landsat system, using existing advisory committees and other appropriate mechanisms. Such advice shall be sought from individuals who represent—

(A) a broad range of perspectives on basic and applied science and operational needs with respect to land remote sensing data;

(B) the full spectrum of users of Landsat data, including representatives from United States Government agencies, State and local government agencies, academic institutions, nonprofit organizations, value-added companies, the agricultural, mineral extraction, and other user industries, and the public, and

(C) a broad diversity of age groups, sexes, and races.

(2) **REPORTS.**—Within 1 year after the date of the enactment of this Act and biennially thereafter, the Landsat Program Management shall prepare and submit a report to the Congress which—

(A) reports the public comments received pursuant to paragraph (1); and

(B) includes—

(i) a response to the public comments received pursuant to paragraph (1);

(ii) information on the volume of use, by category, of data from the Landsat system; and

(iii) any recommendations for policy or programmatic changes to improve the utility and operation of the Landsat system.

15 USC 5612.

#### **SEC. 102. PROCUREMENT OF LANDSAT 7.**

(a) **CONTRACT NEGOTIATIONS.**—The Landsat Program Management shall, subject to appropriations and only under the existing contract authority of the United States Government agencies that compose the Landsat Program Management, expeditiously contract with a United States private sector entity for the development and delivery of Landsat 7.

(b) **DEVELOPMENT AND DELIVERY CONSIDERATION.**—In negotiating a contract under this section for the development and delivery of Landsat 7, the Landsat Program Management shall—

(1) seek, as a fundamental objective, to have Landsat 7 operational by the expected end of the design life of Landsat 6;

(2) seek to ensure data continuity by the development and delivery of a satellite which is, at a minimum, functionally equivalent to the Landsat 6 satellite; and

(3) seek to incorporate in Landsat 7 any performance improvements required to meet United States Government needs that would not jeopardize data continuity.

(c) **NOTIFICATION OF COST AND SCHEDULE CHANGES.**—The Landsat Program Management shall promptly notify the Congress of any significant deviations from the expected cost, delivery date, and launch date of Landsat 7, that are specified by the Landsat Program Management upon award of the contract under this section.

(d) **UNITED STATES PRIVATE SECTOR ENTITIES.**—The Landsat Program Management shall, for purposes of this Act, define the term “United States private sector entities”, taking into account the location of operations, assets, personnel, and other such factors.

15 USC 5613.

#### **SEC. 103. DATA POLICY FOR LANDSAT 4 THROUGH 6.**

(a) **CONTRACT NEGOTIATIONS.**—Within 30 days after the date of enactment of this Act, the Landsat Program Management shall

enter into negotiations with the Landsat 6 contractor to formalize an arrangement with respect to pricing, distribution, acquisition, archiving, and availability of unenhanced data for which the Landsat 6 contractor has responsibility under its contract. Such arrangement shall provide for a phased transition to a data policy consistent with the Landsat 7 data policy (developed pursuant to section 105) by the date of initial operation of Landsat 7. Conditions of the phased arrangement should require that the Landsat 6 contractor adopt provisions so that by the final phase of the transition period—

(1) such unenhanced data shall be provided, at a minimum, to the United States Government and its affiliated users at the cost of fulfilling user requests, on the condition that such unenhanced data are used solely for noncommercial purposes;

(2) instructional data sets, selected from the Landsat data archives, will be made available to educational institutions exclusively for noncommercial, educational purposes at the cost of fulfilling user requests;

(3) Landsat data users are able to acquire unenhanced data contained in the collective archives of foreign ground stations as easily and affordably as practicable;

(4) adequate data necessary to meet the needs of global environmental change researchers and national security users are acquired;

(5) the United States Government and its affiliated users shall not be prohibited from reproduction or dissemination of unenhanced data to other agencies of the United States Government and other affiliated users, on the condition that such unenhanced data are used solely for noncommercial purposes;

(6) nonprofit, public interest entities receive vouchers, data grants, or other such means of providing them with unenhanced data at the cost of fulfilling user requests, on the condition that such unenhanced data are used solely for noncommercial purposes.

(7) a viable role for the private sector in the promotion and development of the commercial market for value added and other services using unenhanced data from the Landsat system is preserved; and

(8) unenhanced data from the Landsat system are provided to the National Satellite Land Remote Sensing Data Archive at no more than the cost of fulfilling user requests.

(b) **FAILURE TO REACH AGREEMENT.**—If negotiations under subsection (a) have not, by September 30, 1993, resulted in an agreement that the Landsat Program Management determines generally achieves the goals stated in subsection (b) (1) through (8), the Administrator and the Secretary of Defense shall, within 30 days after the date of such determination, jointly certify and report such determination to the Congress. The report shall include a review of options and projected costs for achieving such goals, and shall include recommendations for achieving such goals. The options reviewed shall include—

(1) retaining the existing or modified contract with the Landsat 6 contractor;

(2) the termination of existing contracts for the exclusive right to market unenhanced Landsat data; and

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(3) the establishment of an alternative private sector mechanism for the marketing and commercial distribution of such data.

15 USC 5614.

**SEC. 104. TRANSFER OF LANDSAT 6 PROGRAM RESPONSIBILITIES.**

The responsibilities of the Secretary with respect to Landsat 6 shall be transferred to the Landsat Program Management, as agreed to between the Secretary and the Landsat Program Management, pursuant to section 101.

15 USC 5615.

**SEC. 105. DATA POLICY FOR LANDSAT 7.**

(a) **LANDSAT 7 DATA POLICY.**—The Landsat Program Management, in consultation with other appropriate United States Government agencies, shall develop a data policy for Landsat 7 which should—

(1) ensure that unenhanced data are available to all users at the cost of fulfilling user requests;

(2) ensure timely and dependable delivery of unenhanced data to the full spectrum of civilian, national security, commercial, and foreign users and the National Satellite Land Remote Sensing Data Archive;

(3) ensure that the United States retains ownership of all unenhanced data generated by Landsat 7;

(4) support the development of the commercial market for remote sensing data;

(5) ensure that the provision of commercial value-added services based on remote sensing data remains exclusively the function of the private sector; and

(6) to the extent possible, ensure that the data distribution system for Landsat 7 is compatible with the Earth Observing System Data and Information System.

(b) In addition, the data policy for Landsat 7 may provide for—

(1) United States private sector entities to operate ground receiving stations in the United States for Landsat 7 data;

(2) other means for direct access by private sector entities to unenhanced data from Landsat 7; and

(3) the United States Government to charge a per image fee, license fee, or other such fee to entities operating ground receiving stations or distributing Landsat 7 data.

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(c) **LANDSAT 7 DATA POLICY PLAN.**—Not later than July 15, 1994, the Landsat Program Management shall develop and submit to Congress a report that contains a Landsat 7 Data Policy Plan. This plan shall define the roles and responsibilities of the various public and private sector entities that would be involved in the acquisition, processing, distribution, and archiving of Landsat 7 data and in operations of the Landsat 7 spacecraft.

(d) **REPORTS.**—Not later than 12 months after submission of the Landsat 7 Data Policy Plan, required by subsection (c), and annually thereafter until the launch of Landsat 7, the Landsat Program Management, in consultation with representatives of appropriate United States Government agencies, shall prepare and submit a report to the Congress which—

(1) provides justification for the Landsat 7 data policy in terms of the civilian, national security, commercial, and foreign policy needs of the United States; and



(2) provides justification for any elements of the Landsat 7 data policy which are not consistent with the provisions of subsection (a).

## TITLE II—LICENSING OF PRIVATE REMOTE SENSING SPACE SYSTEMS

### SEC. 201. GENERAL LICENSING AUTHORITY.

15 USC 5621.

(a) **LICENSING AUTHORITY OF SECRETARY.**—(1) In consultation with other appropriate United States Government agencies, the Secretary is authorized to license private sector parties to operate private remote sensing space systems for such period as the Secretary may specify and in accordance with the provisions of this title.

(2) In the case of a private space system that is used for remote sensing and other purposes, the authority of the Secretary under this title shall be limited only to the remote sensing operations of such space system.

(b) **COMPLIANCE WITH THE LAW, REGULATIONS, INTERNATIONAL OBLIGATIONS, AND NATIONAL SECURITY.**—No license shall be granted by the Secretary unless the Secretary determines in writing that the applicant will comply with the requirements of this Act, any regulations issued pursuant to this Act, and any applicable international obligations and national security concerns of the United States.

(c) **DEADLINE FOR ACTION ON APPLICATION.**—The Secretary shall review any application and make a determination thereon within 120 days of the receipt of such application. If final action has not occurred within such time, the Secretary shall inform the applicant of any pending issues and of actions required to resolve them.

(d) **IMPROPER BASIS FOR DENIAL.**—The Secretary shall not deny such license in order to protect any existing licensee from competition.

(e) **REQUIREMENT TO PROVIDE UNENHANCED DATA.**—(1) The Secretary, in consultation with other appropriate United States Government agencies and pursuant to paragraph (2), shall designate in a license issued pursuant to this title any unenhanced data required to be provided by the licensee under section 202(b)(3).

(2) The Secretary shall make a designation under paragraph (1) after determining that—

(A) such data are generated by a system for which all or a substantial part of the development, fabrication, launch, or operations costs have been or will be directly funded by the United States Government; or

(B) it is in the interest of the United States to require such data to be provided by the licensee consistent with section 202(b)(3), after considering the impact on the licensee and the importance of promoting widespread access to remote sensing data from United States and foreign systems.

(3) A designation made by the Secretary under paragraph (1) shall not be inconsistent with any contract or other arrangement entered into between a United States Government agency and the licensee.

15 USC 5622.

**SEC. 202. CONDITIONS FOR OPERATION.**

(a) **LICENSE REQUIRED FOR OPERATION.**—No person who is subject to the jurisdiction or control of the United States may, directly or through any subsidiary or affiliate, operate any private remote sensing space system without a license pursuant to section 201.

(b) **LICENSING REQUIREMENTS.**—Any license issued pursuant to this title shall specify that the licensee shall comply with all of the requirements of this Act and shall—

(1) operate the system in such manner as to preserve the national security of the United States and to observe the international obligations of the United States in accordance with section 506;

(2) make available to the government of any country (including the United States) unenhanced data collected by the system concerning the territory under the jurisdiction of such government as soon as such data are available and on reasonable terms and conditions;

(3) make unenhanced data designated by the Secretary in the license pursuant to section 201(e) available in accordance with section 501;

(4) upon termination of operations under the license, make disposition of any satellites in space in a manner satisfactory to the President;

(5) furnish the Secretary with complete orbit and data collection characteristics of the system, and inform the Secretary immediately of any deviation; and

(6) notify the Secretary of any agreement the licensee intends to enter with a foreign nation, entity, or consortium involving foreign nations or entities.

(c) **ADDITIONAL LICENSING REQUIREMENTS FOR LANDSAT 6 CONTRACTOR.**—In addition to the requirements of paragraph (b), any license issued pursuant to this title to the Landsat 6 contractor shall specify that the Landsat 6 contractor shall—

(1) notify the Secretary of any value added activities (as defined by the Secretary by regulation) that will be conducted by the Landsat 6 contractor or by a subsidiary or affiliate; and

(2) if such activities are to be conducted, provide the Secretary with a plan for compliance with section 501 of this Act.

15 USC 5623.

**SEC. 203. ADMINISTRATIVE AUTHORITY OF THE SECRETARY.**

(a) **FUNCTIONS.**—In order to carry out the responsibilities specified in this title, the Secretary may—

(1) grant, condition, or transfer licenses under this Act;

(2) seek an order of injunction or similar judicial determination from a United States District Court with personal jurisdiction over the licensee to terminate, modify, or suspend licenses under this title and to terminate licensed operations on an immediate basis, if the Secretary determines that the licensee has substantially failed to comply with any provisions of this Act, with any terms, conditions, or restrictions of such license, or with any international obligations or national security concerns of the United States.

(3) provide penalties for noncompliance with the requirements of licenses or regulations issued under this title, including civil penalties not to exceed \$10,000 (each day of operation

### TITLE III—RESEARCH, DEVELOPMENT, AND DEMONSTRATION

15 USC 5631.

#### SEC. 301. CONTINUED FEDERAL RESEARCH AND DEVELOPMENT.

(a) **ROLES OF NASA AND DEPARTMENT OF DEFENSE.**—(1) The Administrator and the Secretary of Defense are directed to continue and to enhance programs of remote sensing research and development.

(2) The Administrator is authorized and encouraged to—

(A) conduct experimental space remote sensing programs (including applications demonstration programs and basic research at universities);

(B) develop remote sensing technologies and techniques, including those needed for monitoring the Earth and its environment; and

(C) conduct such research and development in cooperation with other United States Government agencies and with public and private research entities (including private industry, universities, non-profit organizations, State and local governments, foreign governments, and international organizations) and to enter into arrangements (including joint ventures) which will foster such cooperation.

(b) **ROLES OF DEPARTMENT OF AGRICULTURE AND DEPARTMENT OF INTERIOR.**—

(1) In order to enhance the ability of the United States to manage and utilize its renewable and nonrenewable resources, the Secretary of Agriculture and the Secretary of the Interior are authorized and encouraged to conduct programs of research and development in the applications of remote sensing using funds appropriated for such purposes.

(2) Such programs may include basic research at universities, demonstrations of applications, and cooperative activities involving other Government agencies, private sector parties, and foreign and international organizations.

(c) **ROLE OF OTHER FEDERAL AGENCIES.**—Other United States Government agencies are authorized and encouraged to conduct research and development on the use of remote sensing in the fulfillment of their authorized missions, using funds appropriated for such purposes.

15 USC 5632.

#### SEC. 302. AVAILABILITY OF FEDERALLY GATHERED UNENHANCED DATA.

(a) **GENERAL RULE.**—All unenhanced land remote sensing data gathered and owned by the United States Government, including unenhanced data gathered under the technology demonstration program carried out pursuant to section 303, shall be made available to users in a timely fashion.

President.

(b) **PROTECTION FOR COMMERCIAL DATA DISTRIBUTOR.**—The President shall seek to ensure that unenhanced data gathered under the technology demonstration program carried out pursuant to section 303 shall, to the extent practicable, be made available on terms that would not adversely effect the commercial market for unenhanced data gathered by the Landsat 6 spacecraft.

15 USC 5633.

#### SEC. 303. TECHNOLOGY DEMONSTRATION PROGRAM.

President.

(a) **ESTABLISHMENT.**—As a fundamental component of a national land remote sensing strategy, the President shall establish,

through appropriate United States Government agencies, a technology demonstration program. The goals of such programs shall be to—

(1) seek to launch advanced land remote sensing system components within 5 years after the date of the enactment of this Act.

(2) demonstrate within such 5-year period advanced sensor capabilities suitable for use in the anticipated land remote sensing program; and

(3) demonstrate within such 5-year period an advanced land remote sensing system design that could be less expensive to procure and operate than the Landsat system projected to be in operation through the year 2000, and that therefore holds greater potential for private sector investment and control.

(b) EXECUTION OF PROGRAM.—In executing the technology demonstration program, the President shall seek to apply technologies associated with United States National Technical Means of intelligence gathering, to the extent that such technologies are appropriate for the technology demonstration and can be declassified for such purposes without causing adverse harm to United States national security interests.

President.

(c) BROAD APPLICATION.—To the greatest extent practicable, the technology demonstration program established under subsection (a) shall be designed to be responsive to the broad civilian, national security, commercial, and foreign policy needs of the United States.

(d) PRIVATE SECTOR FUNDING.—The technology demonstration program under this section may be carried out in part with private sector funding.

(e) LANDSAT PROGRAM MANAGEMENT COORDINATION.—The Landsat Program Management shall have a coordinating role in the technology demonstration program carried out under this section.

(f) REPORT TO CONGRESS.—The President shall assess the progress of the technology demonstration program under this section and, within 2 years after the date of enactment of this Act, submit a report to the Congress on such progress.

President.

#### TITLE IV—ASSESSING OPTIONS FOR SUCCESSOR LAND REMOTE SENSING SYSTEM

##### SEC. 401. ASSESSING OPTIONS FOR SUCCESSOR LAND REMOTE SENSING SYSTEM.

15 USC 5641.

(a) ASSESSMENT.—Within 5 years after the date of the enactment of this Act, the Landsat Program Management, in consultation with representatives of appropriate United States Government agencies, shall assess and report to the Congress on the options for a successor land remote sensing system to Landsat 7. The report shall include a full assessment of the advantages and disadvantages of—

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(1) private sector funding and management of a successor land remote sensing system;

(2) establishing an international consortium for the funding and management of a successor land remote sensing system;

(3) funding and management of a successor land remote sensing system by the United States Government; and

(4) a cooperative effort between the United States Government and the private sector for the funding and management of a successor land remote sensing system.

(b) **GOALS.**—In carrying out subsection (a), the Landsat Program Management shall consider the ability of each of the options to—

(1) encourage the development, launch, and operation of a land remote sensing system that adequately serves the civilian, national security, commercial, and foreign policy interests of the United States;

(2) encourage the development, launch, and operation of a land remote sensing system that maintains data continuity with the Landsat system; and

(3) incorporate system enhancements, including any such enhancements developed under the technology demonstration program under section 303, which may potentially yield a system that is less expensive to build and operate, and more responsive to data users, than is the Landsat system projected to be in operation through the year 2000.

(c) **PREFERENCE FOR PRIVATE SECTOR SYSTEM.**—If a successor land remote sensing system to Landsat 7 can be funded and managed by the private sector while still achieving the goals stated in subsection (b) without jeopardizing the domestic, national security, and foreign policy interests of the United States, preference should be given to the development of such a system by the private sector without competition from the United States Government.

#### TITLE V—GENERAL PROVISIONS

15 USC 5651.

##### **SEC. 501. NONDISCRIMINATORY DATA AVAILABILITY.**

(a) **GENERAL RULE.**—Except as provided in subsection (b) of this section, any unenhanced data generated by the Landsat system or any other land remote sensing system funded and owned by the United States Government shall be made available to all users without preference, bias, or any other special arrangement (except on the basis of national security concerns pursuant to section 506) regarding delivery, format, pricing, or technical considerations which would favor one customer or class of customers over another.

(b) **EXCEPTIONS.**—Unenhanced data generated by the Landsat system or any other land remote sensing system funded and owned by the United States Government may be made available to the United States Government and its affiliated users at reduced prices, in accordance with this Act, on the condition that such unenhanced data are used solely for noncommercial purposes.

15 USC 5652.

##### **SEC. 502. ARCHIVING OF DATA.**

(a) **PUBLIC INTEREST.**—It is in the public interest for the United States Government to—

(1) maintain an archive of land remote sensing data for historical, scientific, and technical purposes, including long-term global environmental monitoring;

(2) control the content and scope of the archive; and

(3) assure the quality, integrity, and continuity of the archive.

(b) **ARCHIVING PRACTICES.**—The Secretary of the Interior, in consultation with the Landsat Program Management, shall provide for long-term storage, maintenance, and upgrading of a basic, global,

land remote sensing data set (hereinafter referred to as the "basic data set") and shall follow reasonable archival practices to assure proper storage and preservation of the basic data set and timely access for parties requesting data.

(c) **DETERMINATION OF CONTENT OF BASIC DATA SET.**—In determining the initial content of, or in upgrading, the basic data set, the Secretary of Interior shall—

(1) use as a baseline the data archived on the date of enactment of this Act;

(2) take into account future technical and scientific developments and needs, paying particular attention to the anticipated data requirements of global environmental change research;

(3) consult with and seek the advice of users and producers of remote sensing data and data products;

(4) consider the need for data which may be duplicative in terms of geographical coverage but which differ in terms of season, spectral bands, resolution, or other relevant factors;

(5) include, as the Secretary of the Interior considers appropriate, unenhanced data generated either by the Landsat system, pursuant to title I, or by licensees under title II;

(6) include, as the Secretary of the Interior considers appropriate, data collected by foreign ground stations or by foreign remote sensing space systems; and

(7) ensure that the content of the archive is developed in accordance with section 506.

(d) **PUBLIC DOMAIN.**—After the expiration of any exclusive right to sell, or after relinquishment of such right, the data provided to the National Satellite Land Remote Sensing Data Archive shall be in the public domain and shall be made available to requesting parties by the Secretary of the Interior at the cost of fulfilling user requests.

#### **SEC. 503. NONREPRODUCTION.**

15 USC 5653.

Unenhanced data distributed by any licensee under title II of this Act may be sold on the condition that such data will not be reproduced or disseminated by the purchaser for commercial purposes.

#### **SEC. 504. REIMBURSEMENT FOR ASSISTANCE.**

15 USC 5654.

The Administrator, the Secretary of Defense, and the heads of other United States Government agencies may provide assistance to land remote sensing system operators under the provisions of this Act. Substantial assistance shall be reimbursed by the operator, except as otherwise provided by law.

#### **SEC. 505. ACQUISITION OF EQUIPMENT.**

15 USC 5655.

The Landsat Program Management may, by means of a competitive process, allow a licensee under title II or any other private party to buy, lease, or otherwise acquire the use of equipment from the Landsat system, when such equipment is no longer needed for the operation of such system or for the sale of data from such system. Officials of other United States Government civilian agencies are authorized and encouraged to cooperate with the Secretary in carrying out this section.

#### **SEC. 506. RADIO FREQUENCY ALLOCATION.**

15 USC 5656.

(a) **APPLICATION TO FEDERAL COMMUNICATIONS COMMISSION.**—To the extent required by the Communications Act of 1934 (47

Licensing.

U.S.C. 151 et seq.), an application shall be filed with the Federal Communications Commission for any radio facilities involved with commercial remote sensing space systems licensed under title II.

(b) **DEADLINE FOR FCC ACTION.**—It is the intent of Congress that the Federal Communications Commission complete the radio licensing process under the Communications Act of 1934 (47 U.S.C. 151 et seq.), upon the application of any private sector party or consortium operator of any commercial land remote sensing space system subject to this Act, within 120 days of the receipt of an application for such licensing. If final action has not occurred within 120 days of the receipt of such an application, the Federal Communications Commission shall inform the applicant of any pending issues and of actions required to resolve them.

(c) **DEVELOPMENT AND CONSTRUCTION OF UNITED STATES SYSTEMS.**—Authority shall not be required from the Federal Communications Commission for the development and construction of any United States land remote sensing space system (or component thereof), other than radio transmitting facilities or components, while any licensing determination is being made.

(d) **CONSISTENCY WITH INTERNATIONAL OBLIGATIONS AND PUBLIC INTEREST.**—Frequency allocations made pursuant to this section by the Federal Communications Commission shall be consistent with international obligations and with the public interest.

15 USC 5657.

**SEC. 507. CONSULTATION.**

(a) **CONSULTATION WITH SECRETARY OF DEFENSE.**—The Secretary and the Landsat Program Management shall consult with the Secretary of Defense on all matters under this Act affecting national security. The Secretary of Defense shall be responsible for determining those conditions, consistent with this Act, necessary to meet national security concerns of the United States and for notifying the Secretary and the Landsat Program Management promptly of such conditions.

(b) **CONSULTATION WITH SECRETARY OF STATE.**—(1) The Secretary and the Landsat Program Management shall consult with the Secretary of State on all matters under this Act affecting international obligations. The Secretary of State shall be responsible for determining those conditions, consistent with this Act, necessary to meet international obligations and policies of the United States and for notifying promptly the Secretary and the Landsat Program Management of such conditions.

(2) Appropriate United States Government agencies are authorized and encouraged to provide remote sensing data, technology, and training to developing nations as a component of programs of international aid.

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(3) The Secretary of State shall promptly report to the Secretary and Landsat Program Management any instances outside the United States of discriminatory distribution of Landsat data.

(c) **STATUS REPORT.**—The Landsat Program Management shall, as often as necessary, provide to the Congress complete and updated information about the status of ongoing operations of the Landsat system, including timely notification of decisions made with respect to the Landsat system in order to meet national security concerns and international obligations and policies of the United States Government.

(d) **REIMBURSEMENTS.**—If, as a result of technical modifications imposed on a licensee under title II on the basis of national security

concerns, the Secretary, in consultation with the Secretary of Defense or with other Federal agencies, determines that additional costs will be incurred by the licensee, or that past development costs (including the cost of capital) will not be recovered by the licensee, the Secretary may require the agency or agencies requesting such technical modifications to reimburse the licensee for such additional or development costs, but not for anticipated profits. Reimbursements may cover costs associated with required changes in system performance, but not costs ordinarily associated with doing business abroad.

#### **SEC. 508. ENFORCEMENT.**

15 USC 5658.

(a) **IN GENERAL.**—In order to ensure that unenhanced data from the Landsat system received solely for noncommercial purposes are not used for any commercial purpose, the Secretary (in collaboration with private sector entities responsible for the marketing and distribution of unenhanced data generated by the Landsat system) shall develop and implement a system for enforcing this prohibition, in the event that unenhanced data from the Landsat system are made available for noncommercial purposes at a different price than such data are made available for other purposes.

(b) **AUTHORITY OF SECRETARY.**—Subject to subsection (d), the Secretary may impose any of the enforcement mechanisms described in subsection (c) against a person who—

(1) receives unenhanced data from the Landsat system under this Act solely for noncommercial purposes (and at a different price than the price at which such data are made available for other purposes); and

(2) uses such data for other than noncommercial purposes.

(c) **ENFORCEMENT MECHANISMS.**—Enforcement mechanisms referred to in subsection (b) may include civil penalties of not more than \$10,000 (per day per violation), denial of further unenhanced data purchasing privileges, and any other penalties or restrictions the Secretary considers necessary to ensure, to the greatest extent practicable, that unenhanced data provided for noncommercial purposes are not used to unfairly compete in the commercial market against private sector entities not eligible for data at the cost of fulfilling user requests.

(d) **PROCEDURES AND REGULATIONS.**—The Secretary shall issue any regulations necessary to carry out this section and shall establish standards and procedures governing the imposition of enforcement mechanisms under subsection (b). The standards and procedures shall include a procedure for potentially aggrieved parties to file formal protests with the Secretary alleging instances where such unenhanced data has been, or is being, used for commercial purposes in violation of the terms of receipt of such data. The Secretary shall promptly act to investigate any such protest, and shall report annually to the Congress on instances of such violations.

Reports.

### **TITLE VI—PROHIBITION OF COMMERCIALIZATION OF WEATHER SATELLITES**

#### **SEC. 601. PROHIBITION.**

15 USC 5671.

Neither the President nor any other official of the Government shall make any effort to lease, sell, or transfer to the private sector, or commercialize, any portion of the weather satellite sys-



terms operated by the Department of Commerce or any successor agency.

15 USC 5672.

**SEC. 602. FUTURE CONSIDERATIONS.**

Regardless of any change in circumstances subsequent to the enactment of this Act, even if such change makes it appear to be in the national interest to commercialize weather satellites, neither the President nor any official shall take any action prohibited by section 601 unless this title has first been repealed.

Approved October 28, 1992.

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**LEGISLATIVE HISTORY—H.R. 6133:**

CONGRESSIONAL RECORD, Vol. 138 (1992):

Oct. 5, considered and passed House.

Oct. 7, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):

Oct. 28, Presidential statement.

Public Law 102-556  
102d Congress

An Act

To protect the public interest and the future development of pay-per-call technology by providing for the regulation and oversight of the applications and growth of the pay-per-call industry, and for other purposes.

Oct. 28, 1992  
[H.R. 6191]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE, FINDINGS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Telephone Disclosure and Dispute Resolution Act”.

(b) **FINDINGS.**—The Congress finds the following:

(1) The use of pay-per-call services, most commonly through the use of 900 telephone numbers, has grown exponentially in the past few years into a national, billion-dollar industry as a result of recent technological innovations. Such services are convenient to consumers, cost-effective to vendors, and profitable to communications common carriers.

(2) Many pay-per-call businesses provide valuable information, increase consumer choices, and stimulate innovative and responsive services that benefit the public.

(3) The interstate nature of the pay-per-call industry means that its activities are beyond the reach of individual States and therefore requires Federal regulatory treatment to protect the public interest.

(4) The lack of nationally uniform regulatory guidelines has led to confusion for callers, subscribers, industry participants, and regulatory agencies as to the rights of callers and the oversight responsibilities of regulatory authorities, and has allowed some pay-per-call businesses to engage in practices that abuse the rights of consumers.

(5) Some interstate pay-per-call businesses have engaged in practices which are misleading to the consumer, harmful to the public interest, or contrary to accepted standards of business practices and thus cause harm to the many reputable businesses that are serving the public.

(6) Because the consumer most often incurs a financial obligation as soon as a pay-per-call transaction is completed, the accuracy and descriptiveness of vendor advertisements become crucial in avoiding consumer abuse. The obligation for accuracy should include price-per-call and duration-of-call information, odds disclosure for lotteries, games, and sweepstakes, and obligations for obtaining parental consent from callers under 18.

(7) The continued growth of the legitimate pay-per-call industry is dependent upon consumer confidence that unfair and deceptive behavior will be effectively curtailed and that consumers will have adequate rights of redress.

(8) Vendors of telephone-billed goods and services must also feel confident in their rights and obligations for resolving

Telephone  
Disclosure and  
Dispute  
Resolution Act.  
15 USC 5701.

billing disputes if they are to use this new marketplace for the sale of products of more than nominal value.

## TITLE I—CARRIER OBLIGATIONS AND CONSUMER RIGHTS CONCERNING PAY-PER-CALL TRANSACTIONS

### SEC. 101. AMENDMENT TO COMMUNICATIONS ACT OF 1934.

Title II of the Communications Act of 1934 is amended by adding at the end thereof the following new section:

47 USC 228.

### “SEC. 228. REGULATION OF CARRIER OFFERING OF PAY-PER-CALL SERVICES.

“(a) PURPOSE.—It is the purpose of this section—

“(1) to put into effect a system of national regulation and review that will oversee interstate pay-per-call services; and

“(2) to recognize the Commission’s authority to prescribe regulations and enforcement procedures and conduct oversight to afford reasonable protection to consumers of pay-per-call services and to assure that violations of Federal law do not occur.

“(b) GENERAL AUTHORITY FOR REGULATIONS.—The Commission by regulation shall, within 270 days after the date of enactment of this section, establish a system for oversight and regulation of pay-per-call services in order to provide for the protection of consumers in accordance with this Act and other applicable Federal statutes and regulations. The Commission’s final rules shall—

“(1) include measures that provide a consumer of pay-per-call services with adequate and clear descriptions of the rights of the caller;

“(2) define the obligations of common carriers with respect to the provision of pay-per-call services;

“(3) include requirements on such carriers to protect against abusive practices by providers of pay-per-call services;

“(4) identify procedures by which common carriers and providers of pay-per-call services may take affirmative steps to protect against nonpayment of legitimate charges; and

“(5) require that any service described in subparagraphs (A) and (B) of subsection (i)(1) be offered only through the use of certain telephone number prefixes and area codes.

“(c) COMMON CARRIER OBLIGATIONS.—Within 270 days after the date of enactment of this section, the Commission shall, by regulation, establish the following requirements for common carriers:

“(1) CONTRACTUAL OBLIGATIONS TO COMPLY.—Any common carrier assigning to a provider of pay-per-call services a telephone number with a prefix or area code designated by the Commission in accordance with subsection (b)(5) shall require by contract or tariff that such provider comply with the provisions of titles II and III of the Telephone Disclosure and Dispute Resolution Act and the regulations prescribed by the Federal Trade Commission pursuant to those titles.

“(2) INFORMATION AVAILABILITY.—A common carrier that by tariff or contract assigns a telephone number with a prefix or area code designated by the Commission in accordance with

subsection (b)(5) to a provider of a pay-per-call service shall make readily available on request to Federal and State agencies and other interested persons—

“(A) a list of the telephone numbers for each of the pay-per-call services it carries;

“(B) a short description of each such service;

“(C) a statement of the total cost or the cost per minute and any other fees for each such service;

“(D) a statement of the pay-per-call service’s name, business address, and business telephone; and

“(E) such other information as the Commission considers necessary for the enforcement of this section and other applicable Federal statutes and regulations.

“(2) COMPLIANCE PROCEDURES.—A common carrier that by contract or tariff assigns a telephone number with a prefix or area code designated by the Commission in accordance with subsection (b)(5) to a provider of pay-per-call services shall terminate, in accordance with procedures specified in such regulations, the offering of a pay-per-call service of a provider if the carrier knows or reasonably should know that such service is not provided in compliance with title II or III of the Telephone Disclosure and Dispute Resolution Act or the regulations prescribed by the Federal Trade Commission pursuant to such titles.

“(3) SUBSCRIBER DISCONNECTION PROHIBITED.—A common carrier shall not disconnect or interrupt a subscriber’s local exchange telephone service or long distance telephone service because of nonpayment of charges for any pay-per-call service.

“(4) BLOCKING AND PRESUBSCRIPTION.—A common carrier that provides local exchange service shall—

“(A) offer telephone subscribers (where technically feasible) the option of blocking access from their telephone number to all, or to certain specific, prefixes or area codes used by pay-per-call services, which option—

“(i) shall be offered at no charge (I) to all subscribers for a period of 60 days after the issuance of the regulations under subsection (b), and (II) to any subscriber who subscribes to a new telephone number until 60 days after the time the new telephone number is effective; and

“(ii) shall otherwise be offered at a reasonable fee; and

“(B) offer telephone subscribers (where the Commission determines it is technically and economically feasible), in combination with the blocking option described under subparagraph (A), the option of presubscribing to or blocking only specific pay-per-call services for a reasonable one-time charge.

The regulations prescribed under subparagraph (A)(i) of this paragraph may permit the costs of such blocking to be recovered by contract or tariff, but such costs may not be recovered from local or long-distance ratepayers. Nothing in this subsection precludes a common carrier from filing its rates and regulations regarding blocking and presubscription in its interstate tariffs.

“(5) VERIFICATION OF CHARITABLE STATUS.—A common carrier that assigns by contract or tariff a telephone number

with a prefix or area code designated by the Commission in accordance with subsection (b)(5) to a provider of pay-per-call services that the carrier knows or reasonably should know is engaged in soliciting charitable contributions shall obtain from such provider proof of the tax exempt status of any person or organization for which contributions are solicited.

**"(6) BILLING FOR 800 CALLS.**—A common carrier shall prohibit by tariff or contract the use of any 800 telephone number, or other telephone number advertised or widely understood to be toll free, in a manner that would result in—

**"(A)** the calling party being assessed, by virtue of completing the call, a charge for the call;

**"(B)** the calling party being connected to a pay-per-call service;

**"(C)** the calling party being charged for information conveyed during the call unless the calling party has a preexisting agreement to be charged for the information or discloses a credit or charge card number during the call; or

**"(D)** the calling party being called back collect for the provision of audio information services or simultaneous voice conservation services.

**"(d) BILLING AND COLLECTION PRACTICES.**—The regulations required by this section shall require that any common carrier that by tariff or contract assigns a telephone number with a prefix or area code designated by the Commission in accordance with subsection (b)(5) to a provider of a pay-per-call service and that offers billing and collection services to such provider—

**"(1)** ensure that a subscriber is not billed—

**"(A)** for pay-per-call services that such carrier knows or reasonably should know was provided in violation of the regulations issued pursuant to title II of the Telephone Disclosure and Dispute Resolution Act; or

**"(B)** under such other circumstances as the Commission determines necessary in order to protect subscribers from abusive practices;

**"(2)** establish a local or a toll-free telephone number to answer questions and provide information on subscribers' rights and obligations with regard to their use of pay-per-call services and to provide to callers the name and mailing address of any provider of pay-per-call services offered by the common carrier;

**"(3)** within 60 days after the issuance of final regulations pursuant to subsection (b), provide, either directly or through contract with any local exchange carrier that provides billing or collection services to the common carrier, to all of such common carrier's telephone subscribers, to all new subscribers, and to all subscribers requesting service at a new location, a disclosure statement that sets forth all rights and obligations of the subscriber and the carrier with respect to the use and payment for pay-per-call services, including the right of a subscriber not to be billed and the applicable blocking option; and

**"(4)** in any billing to telephone subscribers that includes charges for any pay-per-call service—

"(A) display any charges for pay-per-call services in a part of the subscriber's bill that is identified as not being related to local and long distance telephone charges;

"(B) for each charge so displayed, specify, at a minimum, the type of service, the amount of the charge, and the date, time, and duration of the call; and

"(C) identify the toll-free number established pursuant to paragraph (2).

**"(e) LIABILITY.—**

**"(1) COMMON CARRIERS NOT LIABLE FOR TRANSMISSION OR BILLING.—**No common carrier shall be liable for a criminal or civil sanction or penalty solely because the carrier provided transmission or billing and collection for a pay-per-call service unless the carrier knew or reasonably should have known that such service was provided in violation of a provision of, or regulation prescribed pursuant to, title II or III of the Telephone Disclosure and Dispute Resolution Act or any other Federal law. This paragraph shall not prevent the Commission from imposing a sanction or penalty on a common carrier for a violation by that carrier of a regulation prescribed under this section.

**"(2) CIVIL LIABILITY.—**No cause of action may be brought in any court or administrative agency against any common carrier or any of its affiliates on account of any act of the carrier or affiliate to terminate any pay-per-call service in order to comply with the regulations prescribed under this section, title II or III of the Telephone Disclosure and Dispute Resolution Act, or any other Federal law unless the complainant demonstrates that the carrier or affiliate did not act in good faith.

**"(f) SPECIAL PROVISIONS.—**

**"(1) CONSUMER REFUND REQUIREMENTS.—**The regulations required by subsection (d) shall establish procedures, consistent with the provisions of titles II and III of the Telephone Disclosure and Dispute Resolution Act, to ensure that carriers and other parties providing billing and collection services with respect to pay-per-call services provide appropriate refunds to subscribers who have been billed for pay-per-call services pursuant to programs that have been found to have violated this section or such regulations, any provision of, or regulations prescribed pursuant to, title II or III of the Telephone Disclosure and Dispute Resolution Act, or any other Federal law.

**"(2) RECOVERY OF COSTS.—**The regulations prescribed by the Commission under this section shall permit a common carrier to recover its cost of complying with such regulations from providers of pay-per-call services, but shall not permit such costs to be recovered from local or long distance rate-payers.

**"(3) RECOMMENDATIONS ON DATA PAY-PER-CALL.—**The Commission, within one year after the date of enactment of this section, shall submit to the Congress the Commission's recommendations with respect to the extension of regulations under this section to persons that provide, for a per-call charge, data services that are not pay-per-call services.

**"(g) EFFECT ON OTHER LAW.—**

**"(1) NO PREEMPTION OF ELECTION LAW.—**Nothing in this section shall relieve any provider of pay-per-call services, com-

mon carrier, local exchange carrier, or any other person from the obligation to comply with Federal, State, and local election statutes and regulations.

"(2) CONSUMER PROTECTION LAWS.—Nothing in this section shall relieve any provider of pay-per-call services, common carrier, local exchange carrier, or any other person from the obligation to comply with any Federal, State, or local statute or regulation relating to consumer protection or unfair trade.

"(3) GAMBLING LAWS.—Nothing in this section shall preclude any State from enforcing its statutes and regulations with regard to lotteries, wagering, betting, and other gambling activities.

"(4) STATE AUTHORITY.—Nothing in this section shall preclude any State from enacting and enforcing additional and complementary oversight and regulatory systems or procedures, or both, so long as such systems and procedures govern intrastate services and do not significantly impede the enforcement of this section or other Federal statutes.

"(5) ENFORCEMENT OF EXISTING REGULATIONS.—Nothing in this section shall be construed to prohibit the Commission from enforcing regulations prescribed prior to the date of enactment of this section in fulfilling the requirements of this section to the extent that such regulations are consistent with the provisions of this section.

"(h) EFFECT ON DIAL-A-PORN PROHIBITIONS.—Nothing in this section shall affect the provisions of section 223 of this Act.

"(i) DEFINITION OF PAY-PER-CALL SERVICES.—For purposes of this section—

"(1) The term 'pay-per-call services' means any service—

"(A) in which any person provides or purports to provide—

"(i) audio information or audio entertainment produced or packaged by such person;

"(ii) access to simultaneous voice conversation services; or

"(iii) any service, including the provision of a product, the charges for which are assessed on the basis of the completion of the call;

"(B) for which the caller pays a per-call or per-time-interval charge that is greater than, or in addition to, the charge for transmission of the call; and

"(C) which is accessed through use of a 900 telephone number or other prefix or area code designated by the Commission in accordance with subsection (b)(5).

"(2) Such term does not include directory services provided by a common carrier or its affiliate or by a local exchange carrier or its affiliate, or any service the charge for which is tariffed, or any service for which users are assessed charges only after entering into a presubscription or comparable arrangement with the provider of such service."

#### SEC. 102. TECHNICAL AMENDMENT.

47 USC 227 note.

Section 3(c) of the Telephone Consumer Protection Act of 1991 is amended by striking "section 228" and inserting "section 227".

## **TITLE II—REGULATION OF UNFAIR AND DECEPTIVE ACTS AND PRACTICES IN CONNECTION WITH PAY-PER-CALL SERVICES**

### **SEC. 201. FEDERAL TRADE COMMISSION REGULATIONS.**

15 USC 5711.

#### **(a) IN GENERAL.—**

**(1) ADVERTISING REGULATIONS.**—The Commission shall prescribe rules in accordance with this subsection to prohibit unfair and deceptive acts and practices in any advertisement for pay-per-call services. Such rules shall require that the person offering such pay-per-call services—

(A) clearly and conspicuously disclose in any advertising the cost of the use of such telephone number, including the total cost or the cost per minute and any other fees for that service and for any other pay-per-call service to which the caller may be transferred;

(B) in the case of an advertisement which offers a prize or award or a service or product at no cost or for a reduced cost, clearly and conspicuously disclose the odds of being able to receive such prize, award, service, or product at no cost or reduced cost, or, if such odds are not calculable in advance, disclose the factors determining such odds;

(C) in the case of an advertisement that promotes a service that is not operated or expressly authorized by a Federal agency but that provides information on a Federal program, include at the beginning of such advertisement a clear disclosure that the service is not authorized, endorsed, or approved by any Federal agency;

(D) shall not direct such advertisement at children under the age of 12, unless such service is a bona fide educational service;

(E) in the case of advertising directed primarily to individuals under the age of 18, clearly and conspicuously state in such advertising that such individual must have the consent of such individual's parent or legal guardian for the use of such services;

(F) be prohibited from using advertisements that emit electronic tones which can automatically dial a pay-per-call telephone number;

(G) ensure that, whenever the number to be called is shown in television and print media advertisements, the charges for the call are clear and conspicuous and (when shown in television advertisements) displayed for the same duration as that number is displayed;

(H) in delivering any telephone message soliciting calls to a pay-per-call service, specify clearly, and at no less than the audible volume of the solicitation, the total cost and the cost per minute and any other fees for that service and for any other pay-per-call service to which the caller may be transferred; and

(I) not advertise an 800 telephone number, or any other telephone number advertised or widely understood



to be toll free, from which callers are connected to an access number for a pay-per-call service.

(2) **PAY-PER-CALL SERVICE STANDARDS.**—The Commission shall prescribe rules to require that each provider of pay-per-call services—

(A) include in each pay-per-call message an introductory disclosure message that—

(i) describes the service being provided;

(ii) specifies clearly and at a reasonably understandable volume the total cost or the cost per minute and any other fees for that service and for any other pay-per-call service to which the caller may be transferred;

(iii) informs the caller that charges for the call begin at the end of the introductory message;

(iv) informs the caller that parental consent is required for calls made by children; and

(v) in the case of a pay-per-call service that is not operated or expressly authorized by a Federal agency but that provides information on any Federal program, a statement that clearly states that the service is not authorized, endorsed, or approved by any Federal agency;

(B) enable the caller to hang up at or before the end of the introductory message without incurring any charge whatsoever;

(C) not direct such services at children under the age of 12, unless such service is a bona fide educational service;

(D) stop the assessment of time-based charges immediately upon disconnection by the caller;

(E) disable any bypass mechanism which allows frequent callers to avoid listening to the disclosure message described in subparagraph (A) after the institution of any price increase and for a period of time sufficient to give such frequent callers adequate and sufficient notice of the price change;

(F) be prohibited from providing pay-per-call services through an 800 number or other telephone number advertised or widely understood to be toll free;

(G) be prohibited from billing consumers in excess of the amounts described in the introductory message and from billing for services provided in violation of the rules prescribed by the Commission pursuant to this section;

(H) ensure that any billing statement for such provider's charges shall—

(i) display any charges for pay-per-call services in a part of the consumer's bill that is identified as not being related to local and long distance telephone charges; and

(ii) for each charge so displayed, specify, at a minimum, the type of service, the amount of the charge, and the date, time, and duration of the call;

(I) be liable for refunds to consumers who have been billed for pay-per-call services pursuant to programs that have been found to have violated the regulations prescribed pursuant to this section or title III of this Act or any other Federal law; and

(J) comply with such additional standards as the Commission may prescribe to prevent abusive practices.

(3) **ACCESS TO INFORMATION.**—The Commission shall by rule require a common carrier that provides telephone services to a provider of pay-per-call services to make available to the Commission any records and financial information maintained by such carrier relating to the arrangements (other than for the provision of local exchange service) between such carrier and any provider of pay-per-call services.

(4) **EVASIONS.**—The rules issued by the Commission under this section shall include provisions to prohibit unfair or deceptive acts or practices that evade such rules or undermine the rights provided to customers under this title, including through the use of alternative billing or other procedures.

(5) **EXEMPTIONS.**—The regulations prescribed by the Commission pursuant to paragraph (2)(A) may exempt from the requirements of such paragraph—

(A) calls from frequent callers or regular subscribers using a bypass mechanism to avoid listening to the disclosure message required by such regulations, subject to the requirements of paragraph (2)(E); or

(B) pay-per-call services provided at nominal charges, as defined by the Commission in such regulations.

(6) **CONSIDERATION OF OTHER RULES REQUIRED.**—In conducting a proceeding under this section, the Commission shall consider requiring, by rule or regulation, that providers of pay-per-call services—

(A) automatically disconnect a call after one full cycle of the program; and

(B) include a beep tone or other appropriate and clear signal during a live interactive group program so that callers will be alerted to the passage of time.

(7) **SPECIAL RULE FOR INFREQUENT PUBLICATIONS.**—The rules prescribed by the Commission under subparagraphs (A) and (G) of paragraph (1) may permit, in the case of publications that are widely distributed, that are printed annually or less frequently, and that have an established policy of not publishing specific prices, advertising that in lieu of the cost disclosures required by such subparagraphs, clearly and conspicuously disclose that use of the telephone number may result in a substantial charge.

(8) **TREATMENT OF RULES.**—A rule issued under this subsection shall be treated as a rule issued under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(b) **RULEMAKING.**—The Commission shall prescribe the rules under subsection (a) within 270 days after the date of enactment of this Act. Such rules shall be prescribed in accordance with section 553 of title 5, United States Code.

(c) **ENFORCEMENT.**—Any violation of any rule prescribed under subsection (a) shall be treated as a violation of a rule respecting unfair or deceptive acts or practices under section 5 of the Federal Trade Commission Act (15 U.S.C. 45). Notwithstanding section 5(a)(2) of such Act (15 U.S.C. 45(a)(2)), communications common carriers shall be subject to the jurisdiction of the Commission for purposes of this title.

15 USC 5712.

**SEC. 202. ACTIONS BY STATES.**

(a) **IN GENERAL.**—Whenever an attorney general of any State has reason to believe that the interests of the residents of that State have been or are being threatened or adversely affected because any person has engaged or is engaging in a pattern or practice which violates any rule of the Commission under section 201(a), the State may bring a civil action on behalf of its residents in an appropriate district court of the United States to enjoin such pattern or practice, to enforce compliance with such rule of the Commission, to obtain damages on behalf of their residents, or to obtain such further and other relief as the court may deem appropriate.

(b) **NOTICE.**—The State shall serve prior written notice of any civil action under subsection (a) upon the Commission and provide the Commission with a copy of its complaint, except that if it is not feasible for the State to provide such prior notice, the State shall serve such notice immediately upon instituting such action. Upon receiving a notice respecting a civil action, the Commission shall have the right (1) to intervene in such action, (2) upon so intervening, to be heard on all matters arising therein, and (3) to file petitions for appeal.

(c) **VENUE.**—Any civil action brought under this section in a district court of the United States may be brought in the district wherein the defendant is found or is an inhabitant or transacts business or wherein the violation occurred or is occurring, and process in such cases may be served in any district in which the defendant is an inhabitant or wherever the defendant may be found.

(d) **INVESTIGATORY POWERS.**—For purposes of bringing any civil action under this section, nothing in this Act shall prevent the attorney general from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

(e) **EFFECT ON STATE COURT PROCEEDINGS.**—Nothing contained in this section shall prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal antifraud statute of such State.

(f) **LIMITATION.**—Whenever the Commission has instituted a civil action for violation of any rule or regulation under this Act, no State may, during the pendency of such action instituted by the Commission, subsequently institute a civil action against any defendant named in the Commission's complaint for violation of any rule as alleged in the Commission's complaint.

(g) **ACTIONS BY OTHER STATE OFFICIALS.**—

(1) Nothing contained in this section shall prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal statute of such State.

(2) In addition to actions brought by an attorney general of a State under subsection (a), such an action may be brought by officers of such State who are authorized by the State to bring actions in such State for protection of consumers and who are designated by the Commission to bring an action under subsection (a) against persons that the Commission has determined have or are engaged in a pattern or practice which violates a rule of the Commission under section 201(a).

**SEC. 203. ADMINISTRATION AND APPLICABILITY OF TITLE.**

15 USC 5713.

(a) **IN GENERAL.**—Except as otherwise provided in section 202, this title shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.). Consequently, no activity which is outside the jurisdiction of that Act shall be affected by this Act, except for purposes of this title.

(b) **ACTIONS BY THE COMMISSION.**—The Commission shall prevent any person from violating a rule of the Commission under section 201 in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this title. Any person who violates such rule shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this title.

**SEC. 204. DEFINITIONS.**

15 USC 5714.

For purposes of this title:

(1) The term “pay-per-call services” has the meaning provided in section 228 of the Communications Act of 1934.

(2) The term “attorney general” means the chief legal officer of a State.

(3) The term “State” means any State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, and any territory or possession of the United States.

(4) The term “Commission” means the Federal Trade Commission.

## **TITLE III—BILLING AND COLLECTION**

**SEC. 301. REGULATIONS.**

15 USC 5721.

(a) **IN GENERAL.**—

(1) **RULES REQUIRED.**—The Commission shall, in accordance with the requirements of this section, prescribe rules establishing procedures for the correction of billing errors with respect to telephone-billed purchases. The rules prescribed by the Commission shall also include provisions to prohibit unfair or deceptive acts or practices that evade such rules or undermine the rights provided to customers under this title.

(2) **SUBSTANTIAL SIMILARITY TO CREDIT BILLING.**—The Commission shall promulgate rules under this section that impose requirements that are substantially similar to the requirements imposed, with respect to the resolution of credit disputes, under the Truth in Lending and Fair Credit Billing Acts (15 U.S.C. 1601 et seq.).

(3) **TREATMENT OF RULE.**—A rule issued under paragraph (1) shall be treated as a rule issued under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57(a)(1)(B)).

(b) **RULEMAKING SCHEDULE AND PROCEDURE.**—The Commission shall prescribe the rules under subsection (a) within 270 days after the date of enactment of this Act. Such rules shall be pre-

scribed in accordance with section 553 of title 5, United States Code.

(c) **ENFORCEMENT.**—Any violation of any rule prescribed under subsection (a) shall be treated as a violation of a rule under section 5 of the Federal Trade Commission Act (15 U.S.C. 45) regarding unfair or deceptive acts or practices. Notwithstanding section 5(a)(2) of such Act (15 U.S.C. 45(a)(2)), communications common carriers shall be subject to the jurisdiction of the Commission for purposes of this title.

(d) **CORRECTION OF BILLING ERRORS AND CORRECTION OF CREDIT REPORTS.**—In prescribing rules under this section, the Commission shall consider, with respect to telephone-billed purchases, the following:

- (1) The initiation of a billing review by a customer.
- (2) Responses by billing entities and providing carriers to the initiation of a billing review.
- (3) Investigations concerning delivery of telephone-billed purchases.
- (4) Limitations upon providing carrier responsibilities, including limitations on a carrier's responsibility to verify delivery of audio information or entertainment.
- (5) Requirements on actions by billing entities to set aside charges from a customer's billing statement.
- (6) Limitations on collection actions by billing entities and vendors.
- (7) The regulation of credit reports on billing disputes.
- (8) The prompt notification of credit to an account.
- (9) Rights of customers and telephone common carriers regarding claims and defenses.
- (10) The extent to which the regulations should diverge from requirements under the Truth in Lending and Fair Credit Billing Acts in order to protect customers, and in order to be cost effective to billing entities.

15 USC 5722.

#### **SEC. 302. RELATION TO STATE LAWS.**

(a) **STATE LAW APPLICABLE UNLESS INCONSISTENT.**—This title does not annul, alter, or affect, or exempt any person subject to the provisions of this title from complying with, the laws of any State with respect to telephone billing practices, except to the extent that those laws are inconsistent with any provision of this title, and then only to the extent of the inconsistency. The Commission is authorized to determine whether such inconsistencies exist. The Commission may not determine that any State law is inconsistent with any provision of this chapter if the Commission determines that such law gives greater protection to the consumer.

(b) **REGULATORY EXEMPTIONS.**—The Commission shall by regulation exempt from the requirements of this title any class of telephone-billed purchase transactions within any State if it determines that under the law of that State that class of transactions is subject to requirements substantially similar to those imposed under this chapter or that such law gives greater protection to the consumer, and that there is adequate provision for enforcement.

15 USC 5723.

#### **SEC. 303. ENFORCEMENT.**

The Commission shall enforce the requirements of this title. For the purpose of the exercise by the Commission of its functions and powers under the Federal Trade Commission Act, a violation of any requirement imposed under this title shall be deemed a

violation of a requirement imposed under that Act. All the functions and powers of the Commission under that Act are available to the Commission to enforce compliance by any person with the requirements imposed under this title, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests in that Act. The Commission may prescribe such regulations as are necessary or appropriate to implement the provisions of this title.

**SEC. 304. DEFINITIONS.**

15 USC 5724.

As used in this title—

(1) The term “telephone-billed purchase” means any purchase that is completed solely as a consequence of the completion of the call or a subsequent dialing, touch tone entry, or comparable action of the caller. Such term does not include—

(A) a purchase by a caller pursuant to a preexisting agreement with the vendor;

(B) local exchange telephone services or interexchange telephone services or any service that the Federal Communications Commission determines, by rule—

(i) is closely related to the provision of local exchange telephone services or interexchange telephone services; and

(ii) is subject to billing dispute resolution procedures required by Federal or State statute or regulation; or

(C) the purchase of goods or services which is otherwise subject to billing dispute resolution procedures required by Federal statute or regulation.

(2) A “billing error” consists of any of the following:

(A) A reflection on a billing statement for a telephone-billed purchase which was not made by the customer or, if made, was not in the amount reflected on such statement.

(B) A reflection on a billing statement of a telephone-billed purchase for which the customer requests additional clarification, including documentary evidence thereof.

(C) A reflection on a billing statement of a telephone-billed purchase that was not accepted by the customer or not provided to the customer in accordance with the stated terms of the transaction.

(D) A reflection on a billing statement of a telephone-billed purchase for a call made to an 800 or other toll free telephone number.

(E) The failure to reflect properly on a billing statement a payment made by the customer or a credit issued to the customer with respect to a telephone-billed purchase.

(F) A computation error or similar error of an accounting nature on a statement.

(G) Failure to transmit the billing statement to the last known address of the customer, unless that address was furnished less than twenty days before the end of the billing cycle for which the statement is required.

(H) Any other error described in regulations prescribed by the Commission pursuant to section 553 of title 5, United States Code.

(3) The term “Commission” means the Federal Trade Commission.

(4) The term "providing carrier" means a local exchange or interexchange common carrier providing telephone services (other than local exchange services) to a vendor for a telephone-billed purchase that is the subject of a billing error complaint.

(5) The term "vendor" means any person who, through the use of the telephone, offers goods or services for a telephone-billed purchase.

(6) The term "customer" means any person who acquires or attempts to acquire goods or services in a telephone-billed purchase.

## TITLE IV—MISCELLANEOUS PROVISIONS

### SEC. 401. PROPOSAL FOR DEMONSTRATING THE POTENTIAL OF INNOVATIVE COMMUNICATIONS EQUIPMENT AND SERVICES.

(a) DEMONSTRATION PROPOSAL.—Within 180 days after the date of enactment of this Act, the Assistant Secretary of Energy for Conservation and Renewable Energy, in consultation with the Assistant Secretary of Commerce for Communications and Information, shall submit to Congress a proposal for demonstrating the ability of new and innovative communications equipment and services to further the national goals of conserving energy and protecting public health and safety.

(b) FACTORS TO BE ADDRESSED.—The demonstration proposal required by subsection (a) shall address—

(1) the feasibility of using communications technologies to read meters from remote locations;

(2) the feasibility of managing the consumption of electrical power and natural gas by residences and businesses, thereby reducing the demand for new and additional sources of energy, and controlling the cost of providing improved utility services; and

(3) the public safety implications of monitoring utility services outages during earthquakes, hurricanes, typhoons, tornadoes, volcanoes, and other natural disasters.

(c) PROJECT TO DEMONSTRATE ENERGY CONSERVATION POTENTIAL.—Upon submission of the demonstration proposal to the Congress, the Secretary of Energy shall consider requesting from the Assistant Secretary of Commerce for Communications and Information the authority to use radio frequencies, pursuant to section 305 of the Communications Act of 1934 (47 U.S.C. 305), to carry out demonstration projects consistent with the proposal that are designed to demonstrate the energy conservation potential of communications technologies and which are administered by the Secretary of Energy.

### SEC. 402. TECHNICAL AMENDMENTS.

Section 227(b)(2) of the Communications Act of 1934 (47 U.S.C. 227(b)(2)) is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting "; and"; and

(3) by inserting after subparagraph (B) the following new subparagraph:

“(C) may, by rule or order, exempt from the requirements of paragraphs (1)(A)(iii) of this subsection calls to a telephone number assigned to a cellular telephone service that are not charged to the called party, subject to such conditions as the Commission may prescribe as necessary in the interest of the privacy rights this section is intended to protect.”.

**SEC. 403. INTERCEPTION OF CELLULAR TELECOMMUNICATIONS.**

(a) **AMENDMENT.**—Section 302 of the Communications Act of 1934 (47 U.S.C. 302) is amended by adding at the end the following new subsection: 47 USC 302a.

“(d)(1) Within 180 days after the date of enactment of this subsection, the Commission shall prescribe and make effective regulations denying equipment authorization (under part 15 of title 47, Code of Federal Regulations, or any other part of that title) for any scanning receiver that is capable of— Regulations.

“(A) receiving transmissions in the frequencies allocated to the domestic cellular radio telecommunications service,

“(B) readily being altered by the user to receive transmissions in such frequencies, or

“(C) being equipped with decoders that convert digital cellular transmissions to analog voice audio.

“(2) Beginning 1 year after the effective date of the regulations adopted pursuant to paragraph (1), no receiver having the capabilities described in subparagraph (A), (B), or (C) of paragraph (1), as such capabilities are defined in such regulations, shall be manufactured in the United States or imported for use in the United States.”.

(b) **REPORT TO CONGRESS.**—The Commission shall report to Congress no later than June 1, 1993, on available security features for both analog and digital radio signals. This report shall include a study of security technologies currently available as well as those in development. The study shall assess the capabilities of such technologies, level of security afforded, and cost, with wide-spread deployment of such technologies.

(c) **EFFECT ON OTHER LAWS.**—This section shall not affect section 2512(2) of title 18, United States Code. 47 USC 302a note.

Approved October 28, 1992.

**LEGISLATIVE HISTORY—H.R. 6191:**

CONGRESSIONAL RECORD, Vol. 138 (1992):

Oct. 5, considered and passed House.

Oct. 7, considered and passed Senate.



Public Law 102-557  
102d Congress

Joint Resolution

Oct. 28, 1992  
[H.J. Res. 546]

Designating February 4, 1993, and February 3, 1994, as "National Women and Girls in Sports Day".

Whereas women's athletics is one of the most effective avenues available for women of the United States to develop self-discipline, initiative, confidence, and leadership skills;

Whereas sports and fitness activities contribute to emotional and physical well-being;

Whereas women need strong bodies as well as strong minds;

Whereas the history of women in sports is rich and long, but there has been little national recognition of the significance of women's athletic achievements;

Whereas the number of women in leadership positions as coaches, officials, and administrators has declined drastically since the passage of title IX of the Education Amendments of 1972;

Whereas there is a need to restore women to leadership positions in athletics to ensure a fair representation of the abilities of women and to provide role models for young female athletes;

Whereas the bonds built between women through athletics help to break down the social barriers of racism and prejudice;

Whereas the communication and cooperation skills learned through athletic experience play a key role in the contributions of an athlete at home, at work, and to society;

Whereas women's athletics has produced such winners as Flo Hyman, whose spirit, talent, and accomplishments distinguished her above others and exhibited the true meaning of fairness, determination, and team play;

Whereas parents feel that sports are equally important for boys and girls and that sports and fitness activities provide important benefits to girls who participate;

Whereas early motor skill training and enjoyable experiences of physical activity strongly influence lifelong habits of physical fitness;

Whereas the performances of female athletes in the Olympic games are a source of inspiration and pride to the United States;

Whereas the athletic opportunities for male students at the collegiate and high school levels remain significantly greater than those for female students; and

Whereas the number of funded research projects focusing on the specific needs of women athletes is limited and the information provided by the projects is imperative to the health and performance of future women athletes: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—*

(1) February 4, 1993, and February 3, 1994, are designated as "National Women and Girls in Sports Day"; and

(2) the President is authorized and requested to issue a proclamation calling on local and State jurisdictions, appropriate Federal agencies, and the people of the United States to observe the day with appropriate ceremonies and activities.

Approved October 28, 1992.

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**LEGISLATIVE HISTORY—H.J. Res. 546 (S.J. Res. 329):**

**CONGRESSIONAL RECORD, Vol. 138 (1992):**

Sept. 30, considered and passed House.

Oct. 8, considered and passed Senate.

Public Law 102-558  
102d Congress

An Act

Oct. 28, 1992  
[S. 347]

Defense  
Production Act  
Amendments  
of 1992.  
50 USC app.  
2061 note.

To amend the Defense Production Act of 1950 to revitalize the defense industrial base of the United States, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Defense Production Act Amendments of 1992”.

(b) TABLE OF CONTENTS.—

Section 1. Short title; table of contents.

TITLE I—AMENDMENTS TO THE DEFENSE PRODUCTION ACT OF 1950

PART A—DECLARATION OF POLICY

Sec. 101. Declaration of policy.

PART B—AMENDMENTS TO TITLE I OF THE DEFENSE PRODUCTION ACT

Sec. 111. Strengthening of domestic capability and assistance for small businesses.  
Sec. 112. Limitation on actions without congressional authorization.

PART C—AMENDMENTS TO TITLE III OF THE DEFENSE PRODUCTION ACT

Sec. 121. Expanding the reach of existing authorities under title III.  
Sec. 122. Defense Production Act Fund.  
Sec. 123. Declaration of offset policy.  
Sec. 124. Annual report on impact of offsets.  
Sec. 125. Civil-military integration.  
Sec. 126. Testing, qualification, and use of industrial resources developed under title III projects.

PART D—AMENDMENTS TO TITLE VII OF THE DEFENSE PRODUCTION ACT

Sec. 131. Small business.  
Sec. 132. Definitions.  
Sec. 133. Appointment of personnel.  
Sec. 134. Regulations and orders.  
Sec. 135. Information on the defense industrial base.  
Sec. 136. Public participation in rulemaking.

PART E—TECHNICAL AMENDMENTS

Sec. 141. Technical correction.  
Sec. 142. Investigations; records; reports; subpoenas.  
Sec. 143. Employment of personnel.  
Sec. 144. Technical correction.

PART F—REPEALERS AND CONFORMING AMENDMENTS

Sec. 151. Synthetic fuel action.  
Sec. 152. Repeal of interest payment provisions.  
Sec. 153. Joint Committee on Defense Production.  
Sec. 154. Persons disqualified for employment.  
Sec. 155. Feasibility study on uniform cost accounting standards; report submitted.  
Sec. 156. National commission on supplies and shortages.

PART G—REAUTHORIZATION OF SELECTED PROVISIONS

Sec. 161. Authorization of appropriations.  
Sec. 162. Extension of program.  
Sec. 163. Presidential study.

TITLE II—ADDITIONAL PROVISIONS TO IMPROVE INDUSTRIAL  
PREPAREDNESS

Sec. 201. Discouraging unfair trade practices.

Sec. 202. Fraudulent use of "Made in America" labels.  
Sec. 203. Evaluation of domestic defense industrial base policy.

#### TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Energy security.  
Sec. 302. Domestic retail deposit-taking by foreign banks.  
Sec. 303. Deposit insurance assessment rates for lifeline account deposits.  
Sec. 304. Effective date.  
Sec. 305. Provisional repeal of duplicative provisions.

## TITLE I—AMENDMENTS TO THE DEFENSE PRODUCTION ACT OF 1950

### PART A—DECLARATION OF POLICY

#### SEC. 101. DECLARATION OF POLICY.

Section 2 of the Defense Production Act of 1950 (50 U.S.C. App. 2062) is amended to read as follows:

#### "SEC. 2. DECLARATION OF POLICY.

"(a) FINDINGS.—The Congress finds that—

"(1) the vitality of the industrial and technology base of the United States is a foundation of national security that provides the industrial and technological capabilities employed to meet national defense requirements, in peacetime and in time of national emergency;

"(2) in peacetime, the health of the industrial and technological base contributes to the technological superiority of United States defense equipment, which is a cornerstone of the national security strategy, and the efficiency with which defense equipment is developed and produced;

"(3) in times of crisis, a healthy industrial base will be able to effectively provide the graduated response needed to effectively meet the demands of the emergency;

"(4) in view of continuing international problems, the Nation's demonstrated reliance on imports of materials and components, and the need for measures to reduce defense production lead times and bottlenecks, and in order to provide for the national defense and national security, the United States defense mobilization preparedness effort continues to require the development of—

"(A) preparedness programs;

"(B) domestic defense industrial base improvement measures;

"(C) provisions for a graduated response to any threatening international or military situation;

"(D) the expansion of domestic productive capacity beyond the levels needed to meet the civilian demand; and

"(E) some diversion of certain materials and facilities from civilian use to military and related purposes.

"(5) to meet the requirements referred to in this subsection, this Act affords to the President an array of authorities to shape defense preparedness programs and to take appropriate steps to maintain and enhance the defense industrial and technological base;

"(6) the activities referred to in this subsection are needed in order to—

“(A) improve domestic defense industrial base efficiency and responsiveness;

“(B) reduce the time required for industrial mobilization in the event of an attack on the United States; or

“(C) to respond to actions occurring outside of the United States which could result in the termination or reduction of the availability of strategic and critical materials, including energy, and which could adversely affect the national defense preparedness of the United States;

“(7) in order to ensure national defense preparedness, which is essential to national security, it is necessary and appropriate to assure the availability of domestic energy supplies for national defense needs;

“(8) to further assure the adequate maintenance of the defense industrial base, to the maximum extent possible, such supplies should be augmented through reliance on renewable fuels, including solar, geothermal, and wind energy and ethanol and its derivatives, and on energy conservation measures;

“(9) the domestic defense industrial base is a component part of the core industrial capacity of the Nation;

“(10) much of the industrial capacity which is relied upon by the Federal Government for military production and other defense-related purposes is deeply and directly influenced by—

“(A) the overall competitiveness of the United States industrial economy; and

“(B) the ability of United States industry, in general, to produce internationally competitive products and operate profitably while maintaining adequate research and development to preserve that competitive edge in the future, with respect to military and civilian production;

“(11) the domestic defense industrial base is developing a growing dependency on foreign sources for critical components and materials used in manufacturing and assembling major weapons systems for the national defense;

“(12) such dependence is threatening the capability of many critical industries to respond rapidly to defense production needs in the event of war or other hostilities or diplomatic confrontation; and

“(13) the inability of United States industry, especially smaller subcontractors and suppliers, to provide vital parts and components and other materials would impair our ability to sustain United States Armed Forces in combat for longer than a short period.

“(b) STATEMENT OF POLICY.—It is the policy of the United States that—

“(1) in order to ensure productive capacity in the event of an attack on the United States, the United States should encourage the geographic dispersal of industrial facilities in the United States to discourage the concentration of such productive facilities within limited geographic areas which are vulnerable to attack by an enemy of the United States;

“(2) to ensure that essential mobilization requirements are met, consideration should also be given to stockpiling strategic materials to the extent that such stockpiling is economical and feasible;

“(3) in the construction of any Government-owned industrial facility, in the rendition of any Government financial

assistance for the construction, expansion, or improvement of any industrial facility, and in the production of goods and services, under this or any other Act, each department and agency of the executive branch should apply, under the coordination of the Federal Emergency Management Agency, when practicable and consistent with existing law and the desirability for maintaining a sound economy, the principle of the geographic dispersal of such facilities in the interest of national defense, except that nothing in this paragraph shall preclude the use of existing industrial facilities;

“(4) to ensure the adequacy of productive capacity and supply, executive agencies and departments responsible for defense acquisition should continuously assess the capability of the domestic defense industrial base to satisfy peacetime requirements as well as increased mobilization production requirements, specifically evaluating the availability of adequate production sources, including subcontractors and suppliers, materials, skilled labor, and professional and technical personnel;

“(5) every effort should be made to foster cooperation between the defense and commercial sectors for research and development and for acquisition of materials, components, and equipment; and

“(6) plans and programs to carry out this section shall be undertaken with due consideration for promoting efficiency and competition.”.

## **PART B—AMENDMENTS TO TITLE I OF THE DEFENSE PRODUCTION ACT**

### **SEC. 111. STRENGTHENING OF DOMESTIC CAPABILITY AND ASSISTANCE FOR SMALL BUSINESSES.**

Title I of the Defense Production Act of 1950 (50 U.S.C. App. 2071, et seq.) is amended by adding at the end the following new sections:

#### **“SEC. 107. STRENGTHENING DOMESTIC CAPABILITY.**

50 USC app.  
2077.

“(a) IN GENERAL.—Utilizing the authority of title III of this Act or any other provision of law, the President may provide appropriate incentives to develop, maintain, modernize, and expand the productive capacities of domestic sources for critical components, critical technology items, and industrial resources essential for the execution of the national security strategy of the United States.

“(b) CRITICAL COMPONENTS AND CRITICAL TECHNOLOGY ITEMS.—

“(1) IDENTIFICATION.—

“(A) IN GENERAL.—The President, acting through the Secretary of Defense, shall identify critical components and critical technology items for each item on the Critical Items List of the Commanders-in-Chief of the Unified and Specified Commands and other items within the inventory of weapon systems and defense equipment.

President.

“(B) DEFINITION.—Any component identified as critical by a National Security Assessment conducted pursuant to section 113(i) of title 10, United States Code, or by a Presidential determination as a result of a petition filed under section 232 of the Trade Expansion Act of 1962 shall be designated as a critical component for purposes

President.

of this Act, unless the President determines that the designation is unwarranted.

“(2) MAINTENANCE OF RELIABLE SOURCES OF SUPPLY.—The President shall take appropriate actions to assure that critical components or critical technology items are available from reliable sources when needed to meet defense requirements during peacetime, graduated mobilization, and national emergency.

“(3) APPROPRIATE ACTION.—For purposes of this subsection, appropriate action may include—

“(A) restricting contract solicitations to reliable sources;

“(B) restricting contract solicitations to domestic sources pursuant to—

“(i) section 2304(b)(1)(B) or section 2304(c)(3) of title 10, United States Code;

“(ii) section 303(b)(1)(B) or section 303(c)(3) of the Federal Property and Administrative Services Act of 1949; or

“(iii) other statutory authority;

“(C) stockpiling critical components; and

“(D) developing substitutes for a critical component or a critical technology item.

50 USC app.  
2078.  
President.

#### “SEC. 108. MODERNIZATION OF SMALL BUSINESS SUPPLIERS.

“(a) IN GENERAL.—In providing any assistance under this Act, the President shall accord a strong preference for small business concerns which are subcontractors or suppliers, and, to the maximum extent practicable, to such small business concerns located in areas of high unemployment or areas that have demonstrated a continuing pattern of economic decline, as identified by the Secretary of Labor.

#### “(b) MODERNIZATION OF EQUIPMENT.—

“(1) IN GENERAL.—Funds authorized under title III may be used to guarantee the purchase or lease of advance manufacturing equipment, and any related services with respect to any such equipment for purposes of this Act.

“(2) SMALL BUSINESS SUPPLIERS.—In considering proposals for title III projects under paragraph (1), the President shall provide a strong preference for proposals submitted by a small business supplier or subcontractor whose proposal—

“(A) has the support of the department or agency which will provide the guarantee;

“(B) reflects that the small business concern has made arrangements to obtain qualified outside assistance to support the effective utilization of the advanced manufacturing equipment being proposed for installation; and

“(C) meets the requirements of section 301, 302, or 303.”.

#### SEC. 112. LIMITATION ON ACTIONS WITHOUT CONGRESSIONAL AUTHORIZATION.

Section 104 of the Defense Production Act of 1950 (50 U.S.C. App. 2074) is amended to read as follows:

#### “SEC. 104. LIMITATION ON ACTIONS WITHOUT CONGRESSIONAL AUTHORIZATION.

“(a) WAGE OR PRICE CONTROLS.—No provision of this Act shall be interpreted as providing for the imposition of wage or price

controls without the prior authorization of such action by a joint resolution of Congress.

“(b) CHEMICAL OR BIOLOGICAL WEAPONS.—No provision of title I of this Act shall be exercised or interpreted to require action or compliance by any private person to assist in any way in the production of or other involvement in chemical or biological warfare capabilities, unless authorized by the President (or the President's designee who is serving in a position at level I of the Executive Schedule in accordance with section 5312 of title 5, United States Code) without further redelegation.”.

## **PART C—AMENDMENTS TO TITLE III OF THE DEFENSE PRODUCTION ACT**

### **SEC. 121. EXPANDING THE REACH OF EXISTING AUTHORITIES UNDER TITLE III.**

(a) GUARANTEE AUTHORITY.—Section 301 of the Defense Production Act of 1950 (50 U.S.C. App. 2091) is amended—

(1) in subsection (a)(1), by striking “to expedite production and deliveries or services under Government contracts for the procurement of materials or the performance of services for the national defense” and inserting “to expedite or expand production and deliveries or services under Government contracts for the procurement of industrial resources or critical technology items essential to the national defense”;

(2) by amending subsection (a)(3)(A) to read as follows:  
“(A) the guaranteed contract or activity is for industrial resources or a critical technology item which is essential to the national defense”;

(3) in subsection (a)(3)(B)—

(A) by striking “Without” and inserting “without”; and

(B) by striking “the capability for the needed material or service” and inserting “the needed industrial resources or critical technology item”;

(4) by amending subsection (a)(3)(D) to read as follows:

“(D) the combination of the United States national defense demand and foreseeable nondefense demand is not less than the output of domestic industrial capability, as determined by the President, including the output to be established through the guarantee.”;

(5) in subsection (e)(1)(A), by striking “Except during periods of national emergency declared by the Congress or the President” and inserting “Except as provided in subparagraph (D)”;

(6) in subsection (e)(1)(C), by striking “\$25,000,000” and inserting “\$50,000,000”; and

(7) subsection (e)(1), by adding at the end the following new subparagraph:

“(D) The requirements of subparagraphs (A), (B), and (C) may be waived—

“(i) during periods of national emergency declared by the Congress or the President; or

“(ii) upon a determination by the President, on a nondelegable basis, that a specific guarantee is necessary to avert an industrial resource or critical technology shortfall that would severely impair national defense capability.”.



(b) **LOANS TO PRIVATE BUSINESS ENTERPRISES.**—Section 302 of the Defense Production Act of 1950 (50 U.S.C. App. 2092) is amended—

(1) in subsection (a), by striking “for the procurement of materials or the performance of services for the national defense” and inserting “for the procurement of industrial resources or a critical technology item for the national defense”;

(2) by amending subsection (b)(2)(D) to read as follows:

“(D) the combination of the United States national defense demand and foreseeable nondefense demand is not less than the output of domestic industrial capability, as determined by the President, including the output to be established through the loan.”;

(3) in subsection (c)(1), by striking “No such loan may be made under this section, except during periods of national emergency declared by the Congress or the President” and inserting “Except as provided in paragraph (4), no loans may be made under this section”;

(4) in subsection (c)(3), by striking “\$25,000,000” and inserting “\$50,000,000”; or

(5) in subsection (c), by adding at the end the following new paragraph:

“(4) The requirements of paragraphs (1), (2), and (3) may be waived—

“(A) during periods of national emergency declared by the Congress or the President; and

“(B) upon a determination by the President, on a nondelegable basis, that a specific guarantee is necessary to avert an industrial resource or critical technology shortfall that would severely impair national defense capability.”.

(c) **PURCHASES AND PURCHASE COMMITMENTS.**—

(1) **IN GENERAL.**—Section 303(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2093(a)) is amended to read as follows:

“(a) **PRESIDENTIAL PROVISIONS.**—

“(1) **IN GENERAL.**—To assist in carrying out the objectives of this Act, the President may make provision—

“(A) for purchases of or commitments to purchase an industrial resource or a critical technology item, for Government use or resale; and

“(B) for the encouragement of exploration, development, and mining of critical and strategic materials, and other materials.

“(2) **TREATMENT OF CERTAIN AGRICULTURAL COMMODITIES.**—Purchases for resale under this subsection shall not include that part of the supply of an agricultural commodity which is domestically produced, except to the extent that such domestically produced supply may be purchased for resale for industrial use or stockpiling.

“(3) **TERMS OF SALES.**—No commodity purchased under this subsection shall be sold at less than—

“(A) the established ceiling price for such commodity, except that minerals, metals, and materials shall not be sold at less than the established ceiling price, or the current domestic market price, whichever is lower; or

“(B) if no ceiling price has been established, the higher of—

“(i) the current domestic market price for such commodity; or

“(ii) the minimum sale price established for agricultural commodities owned or controlled by the Commodity Credit Corporation, as provided in section 407 of the Agricultural Act of 1949.

“(4) DELIVERY DATES.—No purchase or commitment to purchase any imported agricultural commodity shall specify a delivery date which is more than 1 year after the expiration of this section.

“(5) PRESIDENTIAL DETERMINATIONS.—Except as provided in paragraph (7), the President may not execute a contract under this subsection unless the President determines that—

“(A) the industrial resource or critical technology item is essential to the national defense;

“(B) without Presidential action under the authority provided for in this section, United States industry cannot reasonably be expected to provide the capability for the needed industrial resource or critical technology item in a timely manner;

“(C) purchases, purchase commitments, or other action pursuant to this section are the most cost-effective, expedient, and practical alternative method for meeting the need; and

“(D) the combination of the United States national defense demand and foreseeable nondefense demand for the industrial resource or critical technology item is not less than the output of domestic industrial capability, as determined by the President, including the output to be established through the purchase, purchase commitment, or other action.

“(6) IDENTIFICATION OF SHORTFALL.—

“(A) IN GENERAL.—Except as provided in paragraph (7), the President shall take no action under this section unless the industrial resource shortfall which such action is intended to correct has been identified in the Budget of the United States, or amendments thereto, submitted to the Congress and accompanied by a statement from the President demonstrating that the budget submission is in accordance with the provisions of paragraph (5).

“(B) TIMING OF ACTION.—Any such action may be taken only after 60 days have elapsed after such industrial resource shortfall has been identified pursuant to subparagraph (A).

“(C) LIMITATION.—If the taking of any action or actions under this section to correct an industrial resource shortfall would cause the aggregate outstanding amount of all such actions for such industrial resource shortfall to exceed \$50,000,000, any such action or actions may be taken only if specifically authorized by law.

“(7) WAIVER.—The requirements of paragraphs (1) through (6) may be waived—

“(A) during periods of national emergency declared by the Congress or the President; or

“(B) upon a determination by the President, on a nondelegable basis, that a specific guarantee is necessary to avert an industrial resource or critical technology shortfall that would severely impair national defense capability.”.

(2) **PURCHASE PERIODS.**—Section 303(b) of the Defense Production Act of 1950 (50 U.S.C. 2093(b)) is amended by striking “September 30, 1995” and inserting “a date that is not more than 10 years from the date such purchase, purchase commitment, or sale was initially made”.

(d) **DEVELOPING SUBSTITUTES.**—Section 303(g) of the Defense Production Act of 1950 (50 U.S.C. App. 2093(g)) is amended by inserting before the period the following: “, critical components, critical technology items, and other industrial resources”.

#### **SEC. 122. DEFENSE PRODUCTION ACT FUND.**

Section 304 of the Defense Production Act of 1950 (50 U.S.C. App. 2094) is amended to read as follows:

##### **“SEC. 304. DEFENSE PRODUCTION ACT FUND.**

“(a) **ESTABLISHMENT OF FUND.**—There is established in the Treasury of the United States a separate fund to be known as the Defense Production Act Fund (hereafter in this section referred to as ‘the Fund’).

“(b) **MONEYS IN FUND.**—There shall be credited to the Fund—

“(1) all moneys appropriated for the Fund, as authorized by section 711(c); and

“(2) all moneys received by the Fund on transactions entered into pursuant to section 303.

“(c) **USE OF FUND.**—The Fund shall be available to carry out the provisions and purposes of this title, subject to the limitations set forth in this Act and in appropriations Acts.

“(d) **DURATION OF FUND.**—Moneys in the Fund shall remain available until expended.

“(e) **FUND BALANCE.**—The Fund balance at the close of each fiscal year shall not exceed \$400,000,000, excluding any moneys appropriated to the Fund during that fiscal year or obligated funds. If, at the close of any fiscal year, the Fund balance exceeds \$400,000,000, the amount in excess of \$400,000,000 shall be paid into the general fund of the Treasury.

President.

“(f) **FUND MANAGER.**—The President shall designate a Fund manager. The duties of the Fund manager shall include—

“(1) determining the liability of the Fund in accordance with subsection (g);

“(2) ensuring the visibility and accountability of transactions engaged in through the Fund; and

Reports.

“(3) reporting to the Congress each year regarding activities of the Fund during the previous fiscal year.

“(g) **LIABILITIES AGAINST FUND.**—When any agreement entered into pursuant to this title after December 31, 1991, imposes any contingent liability upon the United States, such liability shall be considered an obligation against the Fund.”.

50 USC app.  
2099 note.

#### **SEC. 123. DECLARATION OF OFFSET POLICY.**

(a) **IN GENERAL.**—Recognizing that certain offsets for military exports are economically inefficient and market distorting, and mindful of the need to minimize the adverse effects of offsets in military exports while ensuring that the ability of United States

firms to compete for military export sales is not undermined, it is the policy of the Congress that—

(1) no agency of the United States Government shall encourage, enter directly into, or commit United States firms to any offset arrangement in connection with the sale of defense goods or services to foreign governments;

(2) United States Government funds shall not be used to finance offsets in security assistance transactions, except in accordance with policies and procedures that were in existence on March 1, 1992;

(3) nothing in this section shall prevent agencies of the United States Government from fulfilling obligations incurred through international agreements entered into before March 1, 1992; and

(4) the decision whether to engage in offsets, and the responsibility for negotiating and implementing offset arrangements, reside with the companies involved.

(b) **PRESIDENTIAL APPROVAL OF EXCEPTIONS.**—It is the policy of the Congress that the President may approve an exception to the policy stated in subsection (a) after receiving the recommendation of the National Security Council.

(c) **CONSULTATION.**—It is the policy of the Congress that the President shall designate the Secretary of Defense to lead, in coordination with the Secretary of State, an interagency team to consult with foreign nations on limiting the adverse effects of offsets in defense procurement. The President shall transmit an annual report on the results of these consultations to the Congress as part of the report required under section 309(a) of the Defense Production Act of 1950.

President.

Reports.

#### SEC. 124. ANNUAL REPORT ON IMPACT OF OFFSETS.

Section 309 of the Defense Production Act of 1950 (50 U.S.C. App. 2099) is amended—

(1) in subsection (a)—

(A) by striking “(a) REPORT REQUIRED.—Not later” and inserting: “(a) ANNUAL REPORT ON IMPACT OF OFFSETS.—

“(1) REPORT REQUIRED.—Not later”;

(B) by striking the second sentence; and

(C) by adding at the end the following new paragraph:

“(2) **DUTIES OF THE SECRETARY OF COMMERCE.**—The Secretary of Commerce (hereafter in this subsection referred to as ‘the Secretary’) shall—

“(A) prepare the report required by paragraph (1);

“(B) consult with the Secretary of Defense, the Secretary of the Treasury, the Secretary of State, and the United States Trade Representative in connection with the preparation of such report; and

“(C) function as the President’s Executive Agent for carrying out this section.”;

(2) by amending subsection (b) to read as follows:

“(b) **INTERAGENCY STUDIES AND RELATED DATA.**—

“(1) **PURPOSE OF REPORT.**—Each report required under subsection (a) shall identify the cumulative effects of offset agreements on—

“(A) the full range of domestic defense productive capability (with special attention paid to the firms serving as lower-tier subcontractors or suppliers); and

“(B) the domestic defense technology base as a consequence of the technology transfers associated with such offset agreements.

“(2) USE OF DATA.—Data developed or compiled by any agency while conducting any interagency study or other independent study or analysis shall be made available to the Secretary to facilitate the execution of the Secretary’s responsibilities with respect to trade offset and countertrade policy development.”; and

(3) by adding at the end the following new subsections:

“(c) NOTICE OF OFFSET AGREEMENTS.—

“(1) IN GENERAL.—If a United States firm enters into a contract for the sale of a weapon system or defense-related item to a foreign country or foreign firm and such contract is subject to an offset agreement exceeding \$5,000,000 in value, such firm shall furnish to the official designated in the regulations promulgated pursuant to paragraph (2) information concerning such sale.

“(2) REGULATIONS.—The information to be furnished under paragraph (1) shall be prescribed in regulations promulgated by the Secretary. Such regulations shall provide protection from public disclosure for such information, unless public disclosure is subsequently specifically authorized by the firm furnishing the information.

“(d) CONTENTS OF REPORT.—

“(1) IN GENERAL.—Each report under subsection (a) shall include—

“(A) a net assessment of the elements of the industrial base and technology base covered by the report;

“(B) recommendations for appropriate remedial action under the authority of this Act, or other law or regulations;

“(C) a summary of the findings and recommendations of any interagency studies conducted during the reporting period under subsection (b);

“(D) a summary of offset arrangements concluded during the reporting period for which information has been furnished pursuant to subsection (c); and

“(E) a summary and analysis of any bilateral and multilateral negotiations relating to the use of offsets completed during the reporting period.

“(2) ALTERNATIVE FINDINGS OR RECOMMENDATIONS.—Each report required under this section shall include any alternative findings or recommendations offered by any departmental Secretary, agency head, or the United States Trade Representative to the Secretary.

“(e) UTILIZATION OF ANNUAL REPORT IN NEGOTIATIONS.—The findings and recommendations of the reports required by subsection (a), and any interagency reports and analyses shall be considered by representatives of the United States during bilateral and multilateral negotiations to minimize the adverse effects of offsets.”.

#### SEC. 125. CIVIL-MILITARY INTEGRATION.

Title III of the Defense Production Act of 1950 is amended by adding at the end the following new section:

**“SEC. 310. CIVIL-MILITARY INTEGRATION.**50 USC app.  
2099a.

“An important purpose of this title is the creation of production capacity that will remain economically viable after guarantees and other assistance provided under this title have expired.”

**SEC. 126. TESTING, QUALIFICATION, AND USE OF INDUSTRIAL RESOURCES DEVELOPED UNDER TITLE III PROJECTS.**

(a) **IN GENERAL.**—Not later than 270 days after the date of enactment of this Act, the single governmentwide Federal Acquisition Regulation, referred to in section 25(c)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)(1)) shall be amended to provide for testing and qualification (pursuant to subsection (b)) and use (pursuant to subsection (c)) of the industrial resources manufactured or developed with assistance provided under section 301, 302, or 303 of the Defense Production Act of 1950.

(b) **TESTING AND QUALIFICATION.**—Any testing and qualification required for the use or incorporation of the industrial resource developed or manufactured with such assistance shall be undertaken upon the request of the title III project contractor and the costs of such testing and qualification shall be borne by the department or agency imposing the testing and qualification requirement.

(c) **USE.**—Upon qualification, the industrial resource shall be eligible for use with respect to the development and manufacture of a major system or an item of supply being undertaken by an executive agency.

(d) **DEFINITIONS.**—For purposes of this section—

(1) the term “industrial resources” has the same meaning as in section 702(11) of the Defense Production Act of 1950;

(2) the term “item of supply” has the same meaning as in section 4(10) of the Office of Federal Procurement Policy Act;

(3) the term “major system” has the same meaning as in section 4(9) of the Office of Federal Procurement Policy Act; and

(4) the term “title III project contractor” means a contractor who has received assistance for the development or manufacture of an industrial resource under section 301, 302, or 303 of the Defense Production Act of 1950 (50 U.S.C. App. 2091–2093).

**PART D—AMENDMENTS TO TITLE VII OF THE  
DEFENSE PRODUCTION ACT****SEC. 131. SMALL BUSINESS.**

Section 701 of the Defense Production Act of 1950 (50 U.S.C. App. 2151) is amended to read as follows:

**“SEC. 701. SMALL BUSINESS.**

“(a) **PARTICIPATION.**—Small business concerns shall be given the maximum practicable opportunity to participate as contractors, and subcontractors at various tiers, in all programs to maintain and strengthen the Nation’s industrial base and technology base undertaken pursuant to this Act.

“(b) **ADMINISTRATION OF ACT.**—In administering the programs, implementing regulations, policies, and procedures under this Act,

requests, applications, or appeals from small business concerns shall, to the maximum extent practicable, be expeditiously handled.

“(c) **ADVISORY COMMITTEE PARTICIPATION.**—Representatives of small business concerns shall be afforded the maximum opportunity to participate in such advisory committees as may be established pursuant to this Act.

“(d) **INFORMATION.**—Information about this Act and activities undertaken in accordance with this Act shall be made available to small business concerns.

“(e) **ALLOCATIONS UNDER SECTION 101.**—Whenever the President makes a determination to exercise any authority to allocate any material pursuant to section 101, small business concerns shall be accorded, to the extent practicable, a fair share of such material, in proportion to the share received by such business concerns under normal conditions, giving such special consideration as may be possible to emerging small business concerns.”

#### **SEC. 132. DEFINITIONS.**

Section 702 of the Defense Production Act of 1950 (50 U.S.C. App. 2152) is amended to read as follows:

#### **“SEC. 702. DEFINITIONS.**

“For purposes of this Act, the following definitions shall apply:

“(1) **CRITICAL COMPONENT.**—The term ‘critical component’ includes such components, subsystems, systems, and related special tooling and test equipment essential to the production, repair, maintenance, or operation of weapon systems or other items of military equipment identified by the Secretary of Defense as being essential to the execution of the national security strategy of the United States. Components identified as critical by a National Security Assessment conducted pursuant to section 113(i) of title 10, United States Code, or by a Presidential determination as a result of a petition filed under section 232 of the Trade Expansion Act of 1962 shall be designated as critical components for purposes of this Act, unless the President determines that the designation is unwarranted.

“(2) **CRITICAL INDUSTRY FOR NATIONAL SECURITY.**—The term ‘critical industry for national security’ means any industry (or industry sector) identified pursuant to section 2503(6) of title 10, United States Code, and such other industries or industry sectors as may be designated by the President as essential to provide industrial resources required for the execution of the national security strategy of the United States.

“(3) **CRITICAL TECHNOLOGY.**—The term ‘critical technology’ includes any technology that is included in 1 or more of the plans submitted pursuant to section 6681 of title 42, United States Code, or section 2508 of title 10, United States Code (unless subsequently deleted), or such other emerging or dual use technology as may be designated by the President.

“(4) **CRITICAL TECHNOLOGY ITEM.**—The term ‘critical technology item’ means materials directly employing, derived from, or utilizing a critical technology.

“(5) **DEFENSE CONTRACTOR.**—The term ‘defense contractor’ means any person who enters into a contract with the United States—

“(A) to furnish materials, industrial resources, or a critical technology for the national defense; or

"(B) to perform services for the national defense.

"(6) DOMESTIC DEFENSE INDUSTRIAL BASE.—The term 'domestic defense industrial base' means domestic sources which are providing, or which would be reasonably expected to provide, materials or services to meet national defense requirements during peacetime, graduated mobilization, national emergency, or war.

"(7) DOMESTIC SOURCE.—The term 'domestic source' means a business concern—

"(A) that performs in the United States or Canada substantially all of the research and development, engineering, manufacturing, and production activities required of such business concern under a contract with the United States relating to a critical component or a critical technology item; and

"(B) that procures from business concerns described in subparagraph (A) substantially all of any components and assemblies required under a contract with the United States relating to a critical component or critical technology item.

"(8) ESSENTIAL WEAPON SYSTEM.—The term 'essential weapon system' means a major weapon system and other items of military equipment identified by the Secretary of Defense as being essential to the execution of the national security strategy of the United States.

"(9) FACILITIES.—The term 'facilities' includes all types of buildings, structures, or other improvements to real property (but excluding farms, churches or other places of worship, and private dwelling houses), and services relating to the use of any such building, structure, or other improvement.

"(10) FOREIGN SOURCE.—The term 'foreign source' means a business entity other than a 'domestic source'.

"(11) INDUSTRIAL RESOURCES.—The term 'industrial resources' means materials, services, processes, or manufacturing equipment (including the processes, technologies, and ancillary services for the use of such equipment) needed to establish or maintain an efficient and modern national defense industrial capacity.

"(12) MATERIALS.—The term 'materials' includes—

"(A) any raw materials (including minerals, metals, and advanced processed materials), commodities, articles, components (including critical components), products, and items of supply; and

"(B) any technical information or services ancillary to the use of any such materials, commodities, articles, components, products, or items.

"(13) NATIONAL DEFENSE.—The term 'national defense' means programs for military and energy production or construction, military assistance to any foreign nation, stockpiling, space, and any directly related activity.

"(14) PERSON.—The term 'person' includes an individual, corporation, partnership, association, or any other organized group of persons, or legal successor or representative thereof, or any State or local government or agency thereof.

"(15) SERVICES.—The term 'services' includes any effort that is needed for or incidental to—



“(A) the development, production, processing, distribution, delivery, or use of an industrial resource or a critical technology item; or

“(B) the construction of facilities.

“(16) **SMALL BUSINESS CONCERN.**—The term ‘small business concern’ means a business concern that meets the requirements of section 3(a) of the Small Business Act and the regulations promulgated pursuant to that section, and includes such business concerns owned and controlled by socially and economically disadvantaged individuals or by women.

“(17) **SMALL BUSINESS CONCERN OWNED AND CONTROLLED BY SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.**—The term ‘small business concern owned and controlled by socially and economically disadvantaged individuals’ has the same meaning as in section 8(d)(3)(C) of the Small Business Act.”.

#### **SEC. 133. APPOINTMENT OF PERSONNEL.**

Section 703 of the Defense Production Act of 1950 (50 U.S.C. App. 2153) is amended to read as follows:

##### **“SEC. 703. CIVILIAN PERSONNEL.**

“Any officer or agency head may—

“(1) appoint civilian personnel without regard to section 5331(b) of title 5, United States Code, and without regard to the provisions of title 5, United States Code, governing appointments in the competitive service; and

“(2) fix the rate of basic pay for such personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates,

except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule, as the President deems appropriate to carry out this Act.”.

#### **SEC. 134. REGULATIONS AND ORDERS.**

Section 704 of the Defense Production Act of 1950 (50 U.S.C. App. 2154) is amended to read as follows:

##### **“SEC. 704. REGULATIONS AND ORDERS.**

“(a) **IN GENERAL.**—Subject to section 709 and subsection (b), the President may prescribe such regulations and issue such orders as the President may determine to be appropriate to carry out this Act.

“(b) **PROCUREMENT REGULATIONS.**—Any procurement regulation, procedure, or form issued pursuant to subsection (a) shall be issued pursuant to section 25 of the Office of Federal Procurement Policy Act, and shall conform to any governmentwide procurement policy or regulation issued pursuant to section 6 or 25 of that Act.”.

#### **SEC. 135. INFORMATION ON THE DEFENSE INDUSTRIAL BASE.**

Title VII of the Defense Production Act of 1950 (50 U.S.C. App. 2151 et seq.) is amended by adding at the end the following new section:

##### **“SEC. 722. DEFENSE INDUSTRIAL BASE INFORMATION SYSTEM.**

“(a) **ESTABLISHMENT REQUIRED.**—

"(1) IN GENERAL.—The President, acting through the Secretary of Defense and the heads of such other Federal agencies as the President may determine to be appropriate, shall provide for the establishment of an information system on the domestic defense industrial base which—

"(A) meets the requirements of this section; and

"(B) includes a systematic continuous procedure, to collect and analyze information necessary to evaluate—

"(i) the adequacy of domestic industrial capacity to furnish critical components and critical technology items essential to the national security of the United States;

"(ii) dependence on foreign sources for critical components and critical technology items essential to defense production; and

"(iii) the reliability of foreign sources for critical components and critical technology items.

"(2) INCORPORATION OF DINET.—The Defense Information Network (or DINET), as established and maintained by the Secretary of Defense on the date of enactment of the Defense Production Act Amendments of 1992, shall be incorporated into the system established pursuant to paragraph (1).

"(3) USE OF INFORMATION.—Information collected and analyzed under the procedure established pursuant to paragraph (1) shall constitute a basis for making any determination to exercise any authority under this Act and a procedure for using such information shall be integrated into the decision-making process with regard to the exercise of any such authority.

"(b) SOURCES OF INFORMATION.—

"(1) FOREIGN DEPENDENCE.—

"(A) SCOPE OF INFORMATION REVIEW.—The procedure established to meet the requirement of subsection (a)(1)(B)(ii) shall address defense production with respect to the operations of prime contractors and at least the first 2 tiers of subcontractors, or at lower tiers if a critical component is identified at such lower tier.

"(B) USE OF EXISTING DATA COLLECTION AND REVIEW CAPABILITIES.—To the extent feasible and appropriate, the President shall build upon existing methods of data collection and analysis and shall integrate information available from intelligence agencies with respect to industrial and technological conditions in foreign countries.

"(C) INITIAL EMPHASIS ON PRIORITY LISTS.—In establishing the procedure referred to in subparagraph (A), the Secretary may place initial emphasis on the production of critical components and critical technology items.

"(2) PRODUCTION BASE ANALYSIS.—

"(A) COMPREHENSIVE REVIEW.—The analysis of the production base for any major system acquisition included in the information system maintained pursuant to subsection (a) shall, in addition to any information and analyses the President may require—

"(i) include a review of all subcontractors and suppliers, beginning with any raw material, special alloy, or composite material involved in the production of a completed system;

“(ii) identify each contractor and subcontractor (or supplier) at each level of production for such major system acquisition which represents a potential for delaying or preventing the system’s production and acquisition, including the identity of each contractor or subcontractor whose contract qualifies as a foreign source or sole source contract and any supplier which is a foreign source or sole source for any item required in the production, including critical components; and

“(iii) include information to permit appropriate management of accelerated or surge production.

“(B) INITIAL REQUIREMENT FOR STUDY OF PRODUCTION BASES FOR NOT MORE THAN 6 MAJOR WEAPON SYSTEMS.—In establishing the information system under subsection (a), the President, acting through the Secretary of Defense, shall require an analysis of the production base for not more than 2 weapons of each military department which are major systems (as defined in section 2302(5) of title 10, United States Code). Each such analysis shall identify the critical components of each system.

“(3) CONSULTATION REGARDING THE CENSUS OF MANUFACTURERS.—

“(A) IN GENERAL.—The Secretary of Commerce, acting through the Bureau of the Census, shall consult with the Secretary of Defense and the Director of the Federal Emergency Management Agency to improve the usefulness of information derived from the Census of Manufacturers in carrying out this section.

“(B) ISSUES TO BE ADDRESSED.—The consultation required under subparagraph (A) shall address improvements in the level of detail, timeliness, and availability of input and output analyses derived from the Census of Manufacturers necessary to carry out this section.

“(c) STRATEGIC PLAN FOR DEVELOPING COMPREHENSIVE SYSTEM.—

Reports.

“(1) PLAN REQUIRED.—Not later than December 31, 1993, the President shall provide for the establishment of and report to the Congress on a strategic plan for developing a cost-effective, comprehensive information system capable of identifying on a timely, ongoing basis vulnerability in critical components and critical technology items.

“(2) ASSESSMENT OF CERTAIN PROCEDURES.—In establishing the plan pursuant to paragraph (1), the President shall assess the performance and cost-effectiveness of procedures implemented under subsection (b), and shall seek to build upon such procedures, as appropriate.

“(d) CAPABILITIES OF SYSTEM.—

“(1) IN GENERAL.—In connection with the establishment of the information system under subsection (a), the President shall direct the Secretary of Defense, the Secretary of Commerce, and the heads of such other Federal agencies as the President may determine to be appropriate—

“(A) to consult with each other and provide such information, assistance, and cooperation as may be necessary to establish and maintain the information system required by this section in a manner which allows the coordinated and efficient entry of information on the domes-

tic defense industrial base into, and the withdrawal, subject to the protection of proprietary data, of information on the domestic defense industrial base from the system on an on-line interactive basis by the Department of Defense;

“(B) to assure access to the information on the system, as appropriate, for all participating Federal agencies, including each military department;

“(C) to coordinate standards, definitions, and specifications for information on defense production, which is collected by the Department of Defense and the military departments so that such information can be used by any Federal agency or department, as the President determines to be appropriate; and

“(D) to assure that the information in the system is updated, as appropriate, with the active assistance of the private sector.

“(2) TASK FORCE ON MILITARY-CIVILIAN PARTICIPATION.—

Upon the establishment of the information system under subsection (a), the President shall convene a task force consisting of the Secretary of Defense, the Secretary of Commerce, the Secretary of each military department, and the heads of such other Federal agencies and departments as the President may determine to be appropriate to establish guidelines and procedures to ensure that all Federal agencies and departments which acquire information with respect to the domestic defense industrial base are fully participating in the system, unless the President determines that all appropriate Federal agencies and departments, including each military department, are voluntarily providing information which is necessary for the system to carry out the purposes of this Act and chapter 148 of title 10, United States Code.

“(e) REPORT ON SUBCONTRACTOR AND SUPPLIER BASE.—

“(1) REPORT REQUIRED.—The President shall issue a report (in accordance with paragraph (4) which includes—

“(A) a list of critical components, technologies, and technology items for which there is found to be inadequate domestic industrial capacity or capability; and

“(B) an assessment of those subsectors of the economy of the United States which—

“(i) support production of any component, technology, or technology item listed pursuant to subparagraph (A); or

“(ii) have been identified as being critical to the development and production of components required for the production of weapons, weapon systems, and other military equipment essential to the national defense.

“(2) MATTERS TO BE CONSIDERED.—The assessment made under paragraph (1)(B) shall include consideration of—

“(A) the capacity of domestic sources, especially commercial firms, to fulfill peacetime requirements and graduated mobilization requirements for various items of supply and services;

“(B) any trend relating to the capabilities of domestic sources to meet such peacetime and mobilization requirements;

“(C) the extent to which the production or acquisition of various items of military material is dependent on foreign sources; and

“(D) any reason for the decline of the capabilities of selected sectors of the United States economy necessary to meet peacetime and mobilization requirements, including—

“(i) stability of defense requirements;

“(ii) acquisition policies;

“(iii) vertical integration of various segments of the industrial base;

“(iv) superiority of foreign technology and production efficiencies;

“(v) foreign government support of nondomestic sources; and

“(vi) offset arrangements.

“(3) POLICY RECOMMENDATIONS.—The report required by paragraph (1) may provide specific policy recommendations to correct deficiencies identified in the assessment, which would help to strengthen domestic sources.

“(4) TIME FOR ISSUANCE.—The report required by paragraph (1) shall be issued not later than July 1 of each even-numbered year which begins after 1992.

“(5) RELEASE OF UNCLASSIFIED REPORT.—The report required by this subsection may be classified. An unclassified version of the report shall be made available to the public.”.

#### SEC. 136. PUBLIC PARTICIPATION IN RULEMAKING.

(a) IN GENERAL.—Section 709 of the Defense Production Act of 1950 (50 U.S.C. 2159) is amended to read as follows:

##### “SEC. 709. PUBLIC PARTICIPATION IN RULEMAKING.

“(a) EXEMPTION FROM THE ADMINISTRATIVE PROCEDURE ACT.—Any regulation issued under this Act shall not be subject to sections 551 through 559 of title 5, United States Code.

“(b) OPPORTUNITY FOR NOTICE AND COMMENT.—

“(1) IN GENERAL.—Except as provided in subsection (c), any regulation issued under this Act shall be published in the Federal Register and opportunity for public comment shall be provided for not less than 30 days, consistent with the requirements of section 553(b) of title 5, United States Code.

“(2) WAIVER FOR TEMPORARY PROVISIONS.—The requirements of paragraph (1) may be waived, if—

“(A) the officer authorized to issue the regulation finds that urgent and compelling circumstances make compliance with such requirements impracticable;

“(B) the regulation is issued on a temporary basis; and

“(C) the publication of such temporary regulation is accompanied by the finding made under subparagraph (A) (and a brief statement of the reasons for such finding) and an opportunity for public comment is provided for not less than 30 days before any regulation becomes final.

“(3) CONSIDERATION OF PUBLIC COMMENTS.—All comments received during the public comment period specified pursuant to paragraph (1) or (2) shall be considered and the publication of the final regulation shall contain written responses to such comments.

Federal  
Register,  
publication.

“(c) PUBLIC COMMENT ON PROCUREMENT REGULATIONS.—Any procurement policy, regulation, procedure, or form (including any amendment or modification of any such policy, regulation, procedure, or form) issued under this Act shall be subject to section 22 of the Office of Federal Procurement Policy Act.”

(b) SCOPE OF APPLICATION.—Section 709 of the Defense Production Act of 1950 (50 U.S.C. App. 2159), as amended by subsection (a) of this section, shall not apply to any regulation issued in proposed or final form on or before the date of enactment of this Act.

50 USC app.  
2159 note.

## PART E—TECHNICAL AMENDMENTS

### SEC. 141. TECHNICAL CORRECTION.

Section 301(e)(2)(B) of the Defense Production Act of 1950 (50 U.S.C. App. 2091(e)(2)(B)) is amended by striking “and to the Committees on Banking and Currency of the respective Houses” and inserting “and to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives”.

### SEC. 142. INVESTIGATIONS; RECORDS; REPORTS; SUBPOENAS.

Section 705 of the Defense Production Act of 1950 (50 U.S.C. App. 2155) is amended—

(1) by striking “subpena” each place such term appears and inserting “subpoena”;

(2) by redesignating subsections (c), (d), (e), and (f) as subsections (b), (c), (d), and (e), respectively;

(3) in subsection (c) (as redesignated by paragraph (2)), by striking “\$1,000” and inserting “\$10,000”;

(4) in subsection (d) (as redesignated by paragraph (2)), by striking all after the first sentence; and

(5) in subsection (e) (as redesignated by paragraph (2)), by striking “subpenaed” and inserting “subpoenaed”.

### SEC. 143. EMPLOYMENT OF PERSONNEL.

(a) NOTICE OF APPOINTMENT AND FINANCIAL DISCLOSURE FOR EMPLOYEES SERVING WITHOUT COMPENSATION.—Section 710(b)(6) of the Defense Production Act of 1950 (50 U.S.C. App. 2160(b)(6)) is amended to read as follows:

“(6) NOTICE AND FINANCIAL DISCLOSURE REQUIREMENTS.—

“(A) PUBLIC NOTICE OF APPOINTMENT.—The head of any department or agency who appoints any individual under this subsection shall publish a notice of such appointment in the Federal Register, including the name of the appointee, the employing department or agency, the title of the appointee’s position, and the name of the appointee’s private employer.

Federal  
Register,  
publication.

“(B) FINANCIAL DISCLOSURE.—Any individual appointed under this subsection who is not required to file a financial disclosure report pursuant to section 101 of the Ethics in Government Act of 1978, shall file a confidential financial disclosure report pursuant to section 107 of that Act with the appointing department or agency.”

Reports.

(b) TECHNICAL AMENDMENTS.—Section 710(b) of the Defense Production Act of 1950 (50 U.S.C. App. 2160(b)) is amended—

(1) in paragraph (7)—

(A) by striking "Chairman of the United States Civil Service Commission" and inserting "Director of the Office of Personnel Management";

(B) by striking "his findings" and inserting "his or her findings";

(C) by striking "and the Joint Committee on Defense Production"; and

(D) by striking "he may" and inserting "he or she may"; and

(2) in paragraph (8), by striking "transportation and not to exceed \$15 per diem in lieu of subsistence while away from their homes or regular places of business pursuant to such appointment" and inserting "reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the functions for which they were appointed in the same manner as persons employed intermittently in the Federal Government are allowed expenses under section 5703 of title 5, United States Code".

#### **SEC. 144. TECHNICAL CORRECTION.**

Section 711(a)(1) of the Defense Production Act of 1950 (50 U.S.C. App. 2161(a)(1)) is amended by striking "Bureau of the Budget" and inserting "Office of Management and Budget".

### **PART F—REPEALERS AND CONFORMING AMENDMENTS**

#### **SEC. 151. SYNTHETIC FUEL ACTION.**

Section 307 of the Defense Production Act of 1950 (50 U.S.C. App. 2097) is amended—

(1) in subsection (b), by striking the second sentence; and

(2) by striking subsection (c) and all that follows through the end of the section.

#### **SEC. 152. REPEAL OF INTEREST PAYMENT PROVISIONS.**

Section 711 of the Defense Production Act of 1950 (50 U.S.C. App. 2161) is amended—

(1) by striking subsection (b); and

(2) in subsection (a)—

(A) by striking "(a)(1) Except as provided in paragraph

(2) and paragraph (4)" and inserting the following:

"(a) AUTHORIZATION.—

"(1) IN GENERAL.— Except as provided in subsection (c);"

(B) in paragraph (1), in the parenthetical, by striking "and for payment of interest under subsection (b) of this section";

(C) by striking paragraph (2);

(D) in paragraph (3), by striking "(3) There are" and inserting the following:

"(b) SECTION 305 AUTHORIZATION.—"; and

(E) in paragraph (4)—

(i) by striking "(4)(A) There are" and inserting the following:

"(c) SECTION 303 AUTHORIZATION.—There are"; and

(ii) by striking subparagraph (B).

**SEC. 153. JOINT COMMITTEE ON DEFENSE PRODUCTION.**

Section 712 of the Defense Production Act of 1950 (50 U.S.C. App. 2162) is repealed.

**SEC. 154. PERSONS DISQUALIFIED FOR EMPLOYMENT.**

Section 716 of the Defense Production Act of 1950 (50 U.S.C. App. 2165) is repealed.

**SEC. 155. FEASIBILITY STUDY ON UNIFORM COST ACCOUNTING STANDARDS; REPORT SUBMITTED.**

Section 718 of the Defense Production Act of 1950 (50 U.S.C. App. 2167) is repealed.

**SEC. 156. NATIONAL COMMISSION ON SUPPLIES AND SHORTAGES.**

Section 720 of the Defense Production Act of 1950 (50 U.S.C. App. 2169) is repealed.

## **PART G—REAUTHORIZATION OF SELECTED PROVISIONS**

**SEC. 161. AUTHORIZATION OF APPROPRIATIONS.**

Section 711 of the Defense Production Act of 1950 (50 U.S.C. App. 2161) (as amended by section 152 of this Act) is amended by adding at the end the following new subsection:

“(d) **TITLE III AUTHORIZATION.**—There are authorized to be appropriated for each of fiscal years 1993, 1994, and 1995 not more than \$200,000,000 to carry out the provisions of title III of this Act.”.

**SEC. 162. EXTENSION OF PROGRAM.**

The first sentence of section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) is amended by striking “March 1, 1992” and inserting “September 30, 1995”.

**SEC. 163. PRESIDENTIAL STUDY.**

Section 721 of the Defense Production Act of 1950 (50 U.S.C. App. 2170) is amended by adding at the end the following new subsection:

“(k) **QUADRENNIAL REPORT.**—

“(1) **IN GENERAL.**—In order to assist the Congress in its oversight responsibilities with respect to this section, the President and such agencies as the President shall designate shall complete and furnish to the Congress, not later than 1 year after the date of enactment of this section and upon the expiration of every 4 years thereafter, a report which—

“(A) evaluates whether there is credible evidence of a coordinated strategy by 1 or more countries or companies to acquire United States companies involved in research, development, or production of critical technologies for which the United States is a leading producer; and

“(B) evaluates whether there are industrial espionage activities directed by foreign governments against private United States companies aimed at obtaining commercial secrets related to critical technologies.

“(2) **DEFINITION.**—For the purposes of this subsection, the term ‘critical technologies’ means technologies identified under title VI of the National Science and Technology Policy, Organization, and Priorities Act of 1976 or other critical tech-

President.



nology, critical components, or critical technology items essential to national defense identified pursuant to this section.

“(3) RELEASE OF UNCLASSIFIED STUDY.—The report required by this subsection may be classified. An unclassified version of the report shall be made available to the public.”

## TITLE II—ADDITIONAL PROVISIONS TO IMPROVE INDUSTRIAL PREPAREDNESS

### SEC. 201. DISCOURAGING UNFAIR TRADE PRACTICES.

Regulations.

(a) **SUSPENSION OR DEBARMENT AUTHORIZED.**—Not later than 270 days after the date of enactment of this Act, subpart 9.4 of title 48, Code of Federal Regulations (or any successor regulation) shall be amended to specify the circumstances under which a contractor, who has engaged in an unfair trade practice, as defined in subsection (b), may be found to presently lack such business integrity or business honesty to such a degree as to seriously and directly affect the responsibility of the contractor to perform any contract awarded by the Federal Government or perform a subcontract under such a contract.

(b) **DEFINITION OF “UNFAIR TRADE PRACTICE”.**—For purposes of this section, the term “unfair trade practice” means the commission of any of the following acts by a contractor:

(1) **UNFAIR TRADE PRACTICES.**—An unfair trade practice, as determined by the International Trade Commission, for a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337).

(2) **VIOLATION OF AGREEMENTS OF COCOM.**—A violation, as determined by the Secretary of Commerce, of any agreement of the group known as the “Coordinating Committee” for purposes of the Export Administration Act of 1979 or any similar bilateral or multilateral export control agreement.

(3) **FALSE STATEMENTS.**—A knowingly false statement regarding a material element of a certification concerning the foreign content of an item of supply, as determined by the Secretary of the department or the head of the agency to which such certificate was furnished.

### SEC. 202. FRAUDULENT USE OF “MADE IN AMERICA” LABELS.

Regulations.

Not later than 270 days after the date of enactment of this Act, subpart 9.4 of title 48, Code of Federal Regulations (or any successor regulation) shall be amended to specify that any person having been determined to have intentionally affixed a label bearing a “Made in America” inscription (or any inscription having the same meaning) to a product sold in or shipped to the United States may, when such product was not made in the United States, be found to presently lack business integrity or business honesty to such a degree as to seriously and directly affect the responsibility of such person to perform any contract awarded by the Federal Government or perform a subcontract under such a contract.

50 USC app.  
2062 note.

### SEC. 203. EVALUATION OF DOMESTIC DEFENSE INDUSTRIAL BASE POLICY.

(a) **CONGRESSIONAL COMMISSION ON THE EVALUATION OF DEFENSE INDUSTRIAL BASE POLICY ESTABLISHED.**—There is established the Congressional Commission on the Evaluation of the

Defense Industrial Base Policy (hereafter in this section referred to as the "Commission").

(b) DUTIES OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall develop criteria for maintaining the strength of the domestic defense industrial base for purposes of supporting the national security strategy of the United States.

(2) CONSIDERATION OF AGENCY PROCEDURES AND ACTIVITIES.—In developing criteria under paragraph (1), the Commission shall consider, with respect to each Federal agency and department which has any responsibility for maintaining the strength of the domestic defense industrial base—

(A) the extent to which the statutory authority, policies, regulations, organizational arrangements, plans, programs, and budgets of such agency or department are adequate for the purpose of maintaining the strength of the domestic defense industrial base; and

(B) the degree to which such authority, policies, regulations, arrangements, plans, programs, and budgets are being effectively implemented and sufficiently coordinated (within the agency or department and with other Federal agencies and departments).

(3) EVALUATION OF CIVIL-MILITARY INTEGRATION.—The Commission, in developing criteria under paragraph (1) and considering agency procedures and activities under paragraph (2), shall evaluate the feasibility of integrating defense research, development, production, acquisition, and other relevant contracting activities with similar activities in the commercial sector, and the degree to which such integration is being implemented by the agency or department.

(c) MEMBERSHIP.—

(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 9 members, including—

(A) 3 members appointed by the Speaker of the House of Representatives (2 of whom shall be appointed upon the recommendation of the majority leader of the House of Representatives and 1 of whom shall be appointed upon the recommendation of the minority leader of the House of Representatives) from among individuals who are especially qualified to serve on the Commission by reason of their education, training, or experience;

(B) 3 members appointed by the President pro tempore of the Senate (2 of whom shall be appointed upon the recommendation of the majority leader of the Senate and 1 of whom shall be appointed upon the recommendation of the minority leader of the Senate) from among individuals who are especially qualified to serve on the Commission by reason of their education, training, or experience; and

(C) 3 members appointed by a majority of the members appointed under subparagraphs (A) and (B) from among individuals who are especially qualified to serve on the Commission by reason of their education, training, or experience.

(2) TERMS.—

(A) IN GENERAL.—Each member shall be appointed for the life of the Commission.

(B) VACANCY.—A vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(3) PROHIBITION ON COMPENSATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), members of the Commission shall serve without pay.

(B) TRAVEL EXPENSES.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(4) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(5) CHAIRPERSON.—The Chairperson of the Commission shall be elected by the members of the Commission from among the individuals appointed under paragraph (1)(C).

(6) MEETINGS.—The Commission shall meet at the call of the Chairperson or a majority of the members.

(d) POWERS OF COMMISSION.—

(1) HEARINGS AND SESSIONS.—

(A) IN GENERAL.—The Commission may, for the purpose of carrying out this section, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate.

(B) ADMINISTRATION OF OATHS.—The Commission may administer oaths or affirmations to witnesses appearing before the Commission.

(2) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take.

(3) OBTAINING OFFICIAL DATA.—

(A) AUTHORITY TO OBTAIN.—Notwithstanding any provision of section 552a of title 5, United States Code, the Commission may secure directly from any department or agency of the United States information necessary to enable the Commission to carry out this Act.

(B) PROCEDURE.—Upon request of the Chairperson of the Commission, the head of a department or agency referred to in subparagraph (A) shall furnish the information requested to the Commission.

(C) USE OF INFORMATION.—The Commission shall be subject to the same limitations with respect to the use or disclosure of any confidential or privileged information, trade secrets, or other proprietary or business-sensitive information which is obtained from any department or agency under this subsection as are applicable to the use or disclosure of such information or secrets by such department or agency.

(4) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(5) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this section.

(e) STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.—

(1) **STAFF.**—Subject to such regulations as the Commission may prescribe, and with the approval of the Commission, the Chairperson may appoint and fix the pay of such personnel as the Chairperson considers appropriate.

(2) **APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.**—The staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule.

(3) **EXPERTS AND CONSULTANTS.**—Subject to such regulations as the Commission may prescribe, the Chairperson may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the annual rate of basic pay payable for GS-18 of the General Schedule.

(4) **STAFF OF FEDERAL AGENCIES.**—Upon request of the Chairperson, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this Act.

(f) **DOMESTIC DEFENSE INDUSTRIAL BASE DEFINED.**—For the purposes of this section, the term “domestic defense industrial base” means—

(1) the industries in the United States and Canada which at any time are providing national defense materials and services; and

(2) the industries in the United States and Canada which reasonably would be expected to provide national defense materials and services in a time of emergency or war.

(g) **REPORTS.**—The Commission shall submit to the Congress and the President—

(1) an interim report at the end of the 1-year period beginning on the date the Commission first meets with a majority of members present; and

(2) a final report not later than March 1, 1995, on the findings of the Commission under this section with respect to the domestic defense industrial base, together with such recommendations for legislative, administrative, or policy action as the Commission may determine to be appropriate.

(h) **TERMINATION.**—The Commission shall cease to exist 60 days after the date on which the final report is submitted pursuant to subsection (g)(2).

(i) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated an amount equal to not more than \$500,000 to carry out this section, such sums to remain available until the termination of the Commission.

### TITLE III—MISCELLANEOUS PROVISIONS

#### SEC. 301. ENERGY SECURITY.

Section 203 of the Geothermal Energy Research, Development, and Demonstration Act of 1974 (30 U.S.C. 1143) is amended by striking “1990” and inserting “1993”.

#### SEC. 302. DOMESTIC RETAIL DEPOSIT-TAKING BY FOREIGN BANKS.

(a) **IN GENERAL.**—Section 6(c) of the International Banking Act of 1978 (12 U.S.C. 3104(c)) is amended—

(1) in paragraph (1)—

(A) by inserting “domestic retail” before “deposit accounts”; and

(B) by inserting “and requiring deposit insurance protection,” after “\$100,000,”; and

(2) in paragraph (2)—

(A) by striking “Deposit” and inserting “Domestic retail deposit”; and

(B) by inserting “that require deposit insurance protection” after “\$100,000”.

12 USC 3104  
note.

(b) **EFFECTIVE DATE.**—This section, and the amendments made by this section, shall have the same effective date as the Federal Deposit Insurance Corporation Improvement Act of 1991.

#### SEC. 303. DEPOSIT INSURANCE ASSESSMENT RATES FOR LIFELINE ACCOUNT DEPOSITS.

(a) **IN GENERAL.**—Section 7(b)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)) (as amended by section 302(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended—

(1) in subparagraph (D), by striking the comma after “members”; and

(2) by adding at the end the following new subparagraph:

“(H) **BANK ENTERPRISE ACT REQUIREMENT.**—The Corporation shall design the risk-based assessment system so that, insofar as the system bases assessments, directly or indirectly, on deposits, the portion of the deposits of any insured depository institution which are attributable to lifeline accounts established in accordance with the Bank Enterprise Act of 1991 shall be subject to assessment at a rate determined in accordance with such Act.”.

(b) **CONFORMING AMENDMENTS.**—

12 USC 1817.

(1) Section 232(b)(1) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (Public Law 102-242) is amended—

(A) by striking “(8), (9), and (10)” and inserting “and (8)”; and

(B) by striking “(9), (10), and (11)” and inserting “and (9)”.

12 USC 1834a.

(2) Section 233(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by striking “section 235” where such term appears in paragraphs (3) and (5) and inserting “section 234”.

(3) Section 7(d)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1817(d)(4)) (as added by section 233(c)(1) of the

Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking "section 235" and inserting "section 234".

(4) Effective on the effective date of the amendment made by section 302(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991, section 232(a)(1) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 1834(a)(1)) is amended by striking "7(b)(10)" and inserting "7(b)(2)(H)".

Effective date.

(5) Section 10(f) of the Federal Deposit Insurance Act (12 U.S.C. 1820(f)) (as added by section 302(d) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is hereby redesignated as subsection (g).

(6) Section 302(e) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (Public Law 102-242, 105 Stat. 2349) is amended—

(A) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively; and

12 USC 1817,  
1818.

(B) by striking paragraph (1) and inserting the following new paragraphs:

12 USC 1815.

"(1) in section 5(d)(3)(B)(i)—

"(A) by striking 'average assessment base' and inserting 'deposits'; and

"(B) by striking 'shall—' and all that follows through the period and inserting 'shall be treated as deposits which are insured by the Savings Association Insurance Fund.';

"(2) in section 5(d)(3)(B)(ii)—

"(A) by striking 'average assessment base' and inserting 'deposits'; and

"(B) by striking 'shall—' and all that follows through the period and inserting 'shall be treated as deposits which are insured by the Bank Insurance Fund.'"

(7) Effective on the effective date of the amendment made by section 302(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991, section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(c)) (as amended by such section 302(a)) is amended—

Effective date.

(A) by adding at the end, the paragraph added to such section 7(b) (as in effect on the day before the effective date of such amendment) by section 103(b)(2) of the Federal Deposit Insurance Corporation Improvement Act of 1991; and

(B) by redesignating such paragraph as paragraph (6).

(8) Effective on the effective date of the amendment made by section 302(e)(4) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (as so redesignated by paragraph (6)(A) of this subsection), section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) (as amended by section 302(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by adding after paragraph (6) (as transferred and so redesignated by paragraph (6) of this subsection) the following new paragraph:

Effective date.

"(7) COMMUNITY ENTERPRISE CREDITS.—The Corporation shall allow a credit against any semiannual assessment to any insured depository institution which satisfies the requirements of the Community Enterprise Assessment Credit Board

Effective date.

under section 233(a)(1) of the Bank Enterprise Act of 1991 in the amount determined by such Board by regulation.”.

(9) Effective on the effective date of the amendment made by section 302(e)(4) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (as so redesignated by paragraph (3)(A) of this subsection), section 233 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 1834a) is amended—

(A) in subsection (a)(1)(A), by striking “7(d)(4)” and inserting “7(b)(7)”;

(B) in subsection (a)(3), by striking “7(d)(4)” and inserting “7(b)(7)”;

(C) in subsection (e)(2), by striking “made for purposes of the notification required under section 7(d)(1)(B)” and inserting “of the semiannual assessment to which such credit is applicable”.

50 USC app.  
2062 note.

#### SEC. 304. EFFECTIVE DATE.

This Act and the amendments made by this Act shall be deemed to have become effective on March 1, 1992, except as otherwise specifically provided in this Act.

12 USC 1815  
note.

#### SEC. 305. PROVISIONAL REPEAL OF DUPLICATIVE PROVISIONS.

In the event of the enactment of H.R. 5334 (An Act to amend and extend certain laws relating to housing and community development, and for other purposes), the following provisions of that Act, and the amendments made by such provisions, are repealed, effective on the date of enactment of this Act:

(1) Section 1603(a)(3) of such Act.

(2) Section 1604(a)(11) of such Act.

(3) Paragraphs (1), (2), and (3) of section 1604(b) of such Act.

(3) Paragraphs (2) through (7) of section 1605(a) of such Act.

Approved October 28, 1992.

#### LEGISLATIVE HISTORY—S. 347 (H.R. 3039):

HOUSE REPORTS: No. 102-208, Pt. 1 (Comm. on Banking, Finance and Urban Affairs) and Pt. 2 (Comm. on Armed Services), both accompanying H.R. 3039, and No. 102-1028 (Comm. of Conference).

#### CONGRESSIONAL RECORD:

Vol. 137 (1991): Feb. 21, considered and passed Senate.

Oct. 2, H.R. 3039 considered and passed House.

Oct. 10, S. 347 considered and passed House, amended, in lieu of H.R. 3039.

Vol. 138 (1992): Oct. 5, House agreed to conference report.

Oct. 8, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):

Oct. 28, Presidential statement.

Public Law 102-559  
102d Congress

An Act

To prohibit sports gambling under State law, and for other purposes.

Oct. 28, 1992

[S. 474]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Professional and Amateur Sports Protection Act".

Professional and  
Amateur Sports  
Protection Act.  
28 USC 1 note.

**SEC. 2. PROFESSIONAL AND AMATEUR SPORTS PROTECTION.**

(a) IN GENERAL.—Part VI of title 28 of the United States Code is amended by adding at the end the following:

**"CHAPTER 178—PROFESSIONAL AND AMATEUR SPORTS PROTECTION**

"Sec.

"3701. Definitions.

"3702. Unlawful sports gambling.

"3703. Injunctions.

"3704. Applicability.

**"§ 3701. Definitions**

"For purposes of this chapter—

"(1) the term 'amateur sports organization' means—

"(A) a person or governmental entity that sponsors, organizes, schedules, or conducts a competitive game in which one or more amateur athletes participate, or

"(B) a league or association of persons or governmental entities described in subparagraph (A),

"(2) the term 'governmental entity' means a State, a political subdivision of a State, or an entity or organization, including an entity or organization described in section 4(5) of the Indian Gaming Regulatory Act (25 U.S.C. 2703(5)), that has governmental authority within the territorial boundaries of the United States, including on lands described in section 4(4) of such Act (25 U.S.C. 2703(4)),

"(3) the term 'professional sports organization' means—

"(A) a person or governmental entity that sponsors, organizes, schedules, or conducts a competitive game in which one or more professional athletes participate, or

"(B) a league or association of persons or governmental entities described in subparagraph (A),

"(4) the term 'person' has the meaning given such term in section 1 of title 1, and

"(5) the term 'State' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Palau, or any territory or possession of the United States.



**“§ 3702. Unlawful sports gambling**

“It shall be unlawful for—

“(1) a governmental entity to sponsor, operate, advertise, promote, license, or authorize by law or compact, or

“(2) a person to sponsor, operate, advertise, or promote, pursuant to the law or compact of a governmental entity, a lottery, sweepstakes, or other betting, gambling, or wagering scheme based, directly or indirectly (through the use of geographical references or otherwise), on one or more competitive games in which amateur or professional athletes participate, or are intended to participate, or on one or more performances of such athletes in such games.

**“§ 3703. Injunctions**

“A civil action to enjoin a violation of section 3702 may be commenced in an appropriate district court of the United States by the Attorney General of the United States, or by a professional sports organization or amateur sports organization whose competitive game is alleged to be the basis of such violation.

**“§ 3704. Applicability**

“(a) Section 3702 shall not apply to—

“(1) a lottery, sweepstakes, or other betting, gambling, or wagering scheme in operation in a State or other governmental entity, to the extent that the scheme was conducted by that State or other governmental entity at any time during the period beginning January 1, 1976, and ending August 31, 1990;

“(2) a lottery, sweepstakes, or other betting, gambling, or wagering scheme in operation in a State or other governmental entity where both—

“(A) such scheme was authorized by a statute as in effect on October 2, 1991; and

“(B) a scheme described in section 3702 (other than one based on parimutuel animal racing or jai-alai games) actually was conducted in that State or other governmental entity at any time during the period beginning September 1, 1989, and ending October 2, 1991, pursuant to the law of that State or other governmental entity;

“(3) a betting, gambling, or wagering scheme, other than a lottery described in paragraph (1), conducted exclusively in casinos located in a municipality, but only to the extent that—

“(A) such scheme or a similar scheme was authorized, not later than one year after the effective date of this chapter, to be operated in that municipality; and

“(B) any commercial casino gaming scheme was in operation in such municipality throughout the 10-year period ending on such effective date pursuant to a comprehensive system of State regulation authorized by that State's constitution and applicable solely to such municipality; or

“(4) parimutuel animal racing or jai-alai games.

“(b) Except as provided in subsection (a), section 3702 shall apply on lands described in subsection 4(4) of the Indian Gaming Regulatory Act (25 U.S.C. 2703(4)).”

(b) CLERICAL AMENDMENTS.—The table of chapters for part VI of title 28, United States Code, is amended—

(1) by amending the item relating to chapter 176 to read as follows:

"176. Federal Debt Collection Procedure ..... 3001",  
and

(2) by adding at the end the following:

"178. Professional and Amateur Sports Protection ..... 3701".

**SEC. 3. EFFECTIVE DATE.**

28 USC 3701  
note.

This Act shall take effect on January 1, 1993.

Approved October 28, 1992.

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**LEGISLATIVE HISTORY—S. 474:**

SENATE REPORTS: No. 102-248 (Comm. on the Judiciary).  
CONGRESSIONAL RECORD, Vol. 138 (1992):

June 2, considered and passed Senate.

Oct. 5, considered and passed House, amended.

Oct. 7, Senate concurred in House amendments.

Public Law 102-560  
102d Congress

An Act

Oct. 28, 1992

[S. 758]

Patent and  
Plant Variety  
Protection  
Remedy  
Clarification  
Act.  
7 USC 2821  
note.

To clarify that States, instrumentalities of States, and officers and employees of States acting in their official capacity, are subject to suit in Federal court by any person for infringement of patents and plant variety protections, and that all the remedies can be obtained in such suit that can be obtained in a suit against a private entity.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Patent and Plant Variety Protection Remedy Clarification Act".

**SEC. 2. LIABILITY OF STATES, INSTRUMENTALITIES OF STATES, AND STATE OFFICIALS FOR INFRINGEMENT OF PATENTS.**

(a) **LIABILITY AND REMEDIES.**—(1) Section 271 of title 35, United States Code, is amended by adding at the end the following:

"(h) As used in this section, the term 'whoever' includes any State, any instrumentality of a State, and any officer or employee of a State or instrumentality of a State acting in his official capacity. Any State, and any such instrumentality, officer, or employee, shall be subject to the provisions of this title in the same manner and to the same extent as any nongovernmental entity."

(2) Chapter 29 of title 35, United States Code, is amended by adding at the end the following new section:

**"§ 296. Liability of States, instrumentalities of States, and State officials for infringement of patents**

"(a) **IN GENERAL.**—Any State, any instrumentality of a State, and any officer or employee of a State or instrumentality of a State acting in his official capacity, shall not be immune, under the eleventh amendment of the Constitution of the United States or under any other doctrine of sovereign immunity, from suit in Federal court by any person, including any governmental or nongovernmental entity, for infringement of a patent under section 271, or for any other violation under this title.

"(b) **REMEDIES.**—In a suit described in subsection (a) for a violation described in that subsection, remedies (including remedies both at law and in equity) are available for the violation to the same extent as such remedies are available for such a violation in a suit against any private entity. Such remedies include damages, interest, costs, and treble damages under section 284, attorney fees under section 285, and the additional remedy for infringement of design patents under section 289."

(b) **CONFORMING AMENDMENT.**—The table of sections at the beginning of chapter 29 of title 35, United States Code, is amended by adding at the end the following new item:

"Sec. 296. Liability of States, instrumentalities of States, and State officials for infringement of patents."

**SEC. 3. LIABILITY OF STATES, INSTRUMENTALITIES OF STATES, AND STATE OFFICIALS FOR INFRINGEMENT OF PLANT VARIETY PROTECTION.**

(a) INFRINGEMENT OF PLANT VARIETY PROTECTION.—Section 111 of the Plant Variety Protection Act (7 U.S.C. 2541) is amended—

(1) by inserting “(a)” before “Except as otherwise provided”; and

(2) by adding at the end thereof the following new subsection:

“(b) As used in this section, the term ‘perform without authority’ includes performance without authority by any State, any instrumentality of a State, and any officer or employee of a State or instrumentality of a State acting in his official capacity. Any State, and any such instrumentality, officer, or employee, shall be subject to the provisions of this Act in the same manner and to the same extent as any nongovernmental entity.”

(b) LIABILITY OF STATES, INSTRUMENTALITIES OF STATES, AND STATE OFFICIALS FOR INFRINGEMENT OF PLANT VARIETY PROTECTION.—Chapter 12 of the Plant Variety Protection Act (7 U.S.C. 2561 et seq.) is amended by adding at the end thereof the following new section:

**“SEC. 130. LIABILITY OF STATES, INSTRUMENTALITIES OF STATES, AND STATE OFFICIALS FOR INFRINGEMENT OF PLANT VARIETY PROTECTION.**

7 USC 2570.

“(a) Any State, any instrumentality of a State, and any officer or employee of a State or instrumentality of a State acting in his official capacity, shall not be immune, under the eleventh amendment of the Constitution of the United States or under any other doctrine of sovereign immunity, from suit in Federal court by any person, including any governmental or nongovernmental entity, for infringement of plant variety protection under section 111, or for any other violation under this title.

“(b) In a suit described in subsection (a) for a violation described in that subsection, remedies (including remedies both at law and in equity) are available for the violation to the same extent as such remedies are available for such a violation in a suit against any private entity. Such remedies include damages, interest, costs, and treble damages under section 124, and attorney fees under section 125.”

7 USC 2541  
note.

**SEC. 4. EFFECTIVE DATE.**

The amendments made by this Act shall take effect with respect to violations that occur on or after the date of the enactment of this Act.

Approved October 28, 1992.

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**LEGISLATIVE HISTORY—S. 758:**

**SENATE REPORTS:** No. 102-280 (Comm. on the Judiciary).

**CONGRESSIONAL RECORD,** Vol. 138 (1992):

June 12, considered and passed Senate.

Oct. 3, considered and passed House.

Public Law 102-561  
102d Congress

An Act

To amend title 18, United States Code, with respect to the criminal penalties for copyright infringement.

Oct. 28, 1992

[S. 893]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. CRIMINAL PENALTIES FOR COPYRIGHT INFRINGEMENT.**

Section 2319(b) of title 18, United States Code, is amended to read as follows:

“(b) Any person who commits an offense under subsection (a) of this section—

“(1) shall be imprisoned not more than 5 years, or fined in the amount set forth in this title, or both, if the offense consists of the reproduction or distribution, during any 180-day period, of at least 10 copies or phonorecords, of 1 or more copyrighted works, with a retail value of more than \$2,500;

“(2) shall be imprisoned not more than 10 years, or fined in the amount set forth in this title, or both, if the offense is a second or subsequent offense under paragraph (1); and

“(3) shall be imprisoned not more than 1 year, or fined in the amount set forth in this title, or both, in any other case.”.

**SEC. 2. CONFORMING AMENDMENTS.**

Section 2319(c) of title 18, United States Code, is amended—

(1) in paragraph (1) by striking “‘sound recording’, ‘motion picture’, ‘audiovisual work’, ‘phonorecord’,” and inserting “‘phonorecord’”; and

(2) in paragraph (2) by striking “118” and inserting “120”.

Approved October 28, 1992.

**LEGISLATIVE HISTORY—S. 893:**

HOUSE REPORTS: No. 102-997 (Comm. on the Judiciary).  
SENATE REPORTS: No. 102-268 (Comm. on the Judiciary).  
CONGRESSIONAL RECORD, Vol. 138 (1992):

June 4, considered and passed Senate.

Oct. 3, considered and passed House, amended.

Oct. 8, Senate concurred in House amendments.

Public Law 102-562  
102d Congress

An Act

Oct. 28, 1992  
[S. 1439]

To authorize and direct the Secretary of the Interior to convey certain lands in Livingston Parish, Louisiana, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

## TITLE I—LAND CONVEYANCE

### SEC. 101. FINDINGS.

The Congress finds and declares that—

(1) there is a history of adverse claims and title confusion relating to certain lands in Livingston Parish, Louisiana, arising from private land claims predating the Louisiana Purchase;

(2) numerous parties have in good faith placed valuable improvements upon such lands in the belief that they owned such lands; and

(3) the public interest will be best served by clarifying the uncertainty of title by conveying the interest of the United States in such lands to those affected parties.

### SEC. 102. CONVEYANCE OF LANDS.

(a) IN GENERAL.—Notwithstanding any other provision of law, and subject to the reservation in subsection (b), the United States hereby grants all right, title, and interest of the United States in and to certain lands in Livingston Parish, Louisiana, as described in section 103, to those parties who, as of the date of enactment of this Act, would be recognized as holders of a right, title, or interest to any portion of such lands under the laws of the State of Louisiana, but for the interest of the United States in such lands.

(b) RESERVATION OF MINERAL RIGHTS.—The United States hereby excepts and reserves from the provisions of subsection (a) of this section, all minerals underlying such lands, along with the right to prospect for, mine, and remove the minerals under applicable law and such regulations as the Secretary of the Interior may prescribe.

### SEC. 103. DESCRIPTION OF LANDS TO BE CONVEYED.

The lands to be conveyed pursuant to this title are those lands located in section 37, township 5 south, range 4 east, St. Helena Meridian, in Livingston Parish, Louisiana.

## TITLE II—PORT CHICAGO NATIONAL MEMORIAL

Port Chicago  
National  
Memorial Act of  
1992.  
California.

16 USC 431 note.

### SEC. 201. SHORT TITLE.

This title may be referred to as the "Port Chicago National Memorial Act of 1992".

### SEC. 202. FINDINGS.

The Congress hereby finds that—

(1) the Port Chicago Naval Magazine, located in Contra Costa County, California, served as the major West Coast munitions supply facility during World War II, during which time the facility played a critical role in the success of the war effort;

(2) on July 17, 1944, an explosion at Port Chicago, the origin of which has never been determined, resulted in the deaths of 320 officers and sailors, the largest domestic loss of life during World War II, and the injury of many others; and

(3) it is fitting and appropriate that the site of the Port Chicago Naval Magazine, which is currently included in the Concord Naval Weapons Station, be designated as a National Memorial to commemorate the role of the facility during World War II, to recognize those who served at the facility, and to honor the memory of those who gave their lives and were injured in the explosion on July 17, 1944.

### SEC. 203. PORT CHICAGO NATIONAL MEMORIAL.

(a) DESIGNATION.—In order to recognize the critical role Port Chicago, located at the Concord Naval Weapons Station in Contra Costa County, California, played in the Second World War by serving as the main facility for the Pacific Theater and the historic importance of the explosion which occurred at the Port Chicago Naval Magazine on July 17, 1944, such Naval Magazine is hereby designated as a National Memorial, to be known as the Port Chicago Naval Magazine National Memorial. The Secretary of the Interior shall take appropriate action to assure that the Memorial is announced in the Federal Register and that official records and lists are amended, in due course, to reflect the inclusion of this memorial along with other national memorials established by an Act of Congress.

Federal  
Register,  
publication.  
Records.

(b) MARKER.—The Secretary of the Interior, with the concurrence of the Secretary of Defense, is authorized and directed to place at the site the Port Chicago Naval Magazine National Memorial, as designated under subsection (a), an appropriate plaque or marker commemorating the critical role Port Chicago played in the Second World War and the historic importance of the explosion which occurred at that location on July 17, 1944. The plaque or marker shall include a listing of the names of those who lost their lives during the explosion.

(c) PUBLIC ACCESS.—The Secretary of the Interior shall enter into a cooperative agreement with the Secretary of the Navy to provide for public access to the Memorial.

Contracts.



**SEC. 204. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as are necessary to carry out this title.

Approved October 28, 1992.

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**LEGISLATIVE HISTORY—S. 1439:**

**HOUSE REPORTS:** No. 102-948 (Comm. on Interior and Insular Affairs).

**SENATE REPORTS:** No. 102-284 (Comm. on Energy and Natural Resources).

**CONGRESSIONAL RECORD**, Vol. 138 (1992):

June 12, considered and passed Senate.

Sept. 29, considered and passed House, amended.

Oct. 8, Senate concurred in House amendments.

Public Law 102-563  
102d Congress

An Act

To amend title 17, United States Code, to implement a royalty payment system and a serial copy management system for digital audio recording, to prohibit certain copyright infringement actions, and for other purposes.

Oct. 28, 1992  
[S. 1623]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Audio Home  
Recording Act  
of 1992.  
17 USC 1001  
note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Audio Home Recording Act of 1992".

**SEC. 2. IMPORTATION, MANUFACTURE, AND DISTRIBUTION OF DIGITAL AUDIO RECORDING DEVICES AND MEDIA.**

Title 17, United States Code, is amended by adding at the end the following:

**"CHAPTER 10—DIGITAL AUDIO RECORDING DEVICES AND MEDIA**

**"SUBCHAPTER A—DEFINITIONS**

"Sec.  
"1001. Definitions.

**"SUBCHAPTER B—COPYING CONTROLS**

"1002. Incorporation of copying controls.

**"SUBCHAPTER C—ROYALTY PAYMENTS**

"1003. Obligation to make royalty payments.

"1004. Royalty payments.

"1005. Deposit of royalty payments and deduction of expenses.

"1006. Entitlement to royalty payments.

"1007. Procedures for distributing royalty payments.

**"SUBCHAPTER D—PROHIBITION ON CERTAIN INFRINGEMENT ACTIONS, REMEDIES, AND ARBITRATION**

"1008. Prohibition on certain infringement actions.

"1009. Civil remedies.

"1010. Arbitration of certain disputes.

**"SUBCHAPTER A—DEFINITIONS**

**"§ 1001. Definitions**

"As used in this chapter, the following terms have the following meanings:

"(1) A 'digital audio copied recording' is a reproduction in a digital recording format of a digital musical recording, whether that reproduction is made directly from another digital musical recording or indirectly from a transmission.

"(2) A 'digital audio interface device' is any machine or device that is designed specifically to communicate digital audio information and related interface data to a digital audio recording device through a nonprofessional interface.

"(3) A 'digital audio recording device' is any machine or device of a type commonly distributed to individuals for use by individuals, whether or not included with or as part of some other machine or device, the digital recording function of which is designed or marketed for the primary purpose of, and that is capable of, making a digital audio copied recording for private use, except for—

"(A) professional model products, and

"(B) dictation machines, answering machines, and other audio recording equipment that is designed and marketed primarily for the creation of sound recordings resulting from the fixation of nonmusical sounds.

"(4)(A) A 'digital audio recording medium' is any material object in a form commonly distributed for use by individuals, that is primarily marketed or most commonly used by consumers for the purpose of making digital audio copied recordings by use of a digital audio recording device.

"(B) Such term does not include any material object—

"(i) that embodies a sound recording at the time it is first distributed by the importer or manufacturer; or

"(ii) that is primarily marketed and most commonly used by consumers either for the purpose of making copies of motion pictures or other audiovisual works or for the purpose of making copies of nonmusical literary works, including computer programs or data bases.

"(5)(A) A 'digital musical recording' is a material object—

"(i) in which are fixed, in a digital recording format, only sounds, and material, statements, or instructions incidental to those fixed sounds, if any, and

"(ii) from which the sounds and material can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device.

"(B) A 'digital musical recording' does not include a material object—

"(i) in which the fixed sounds consist entirely of spoken word recordings, or

"(ii) in which one or more computer programs are fixed, except that a digital musical recording may contain statements or instructions constituting the fixed sounds and incidental material, and statements or instructions to be used directly or indirectly in order to bring about the perception, reproduction, or communication of the fixed sounds and incidental material.

"(C) For purposes of this paragraph—

"(i) a 'spoken word recording' is a sound recording in which are fixed only a series of spoken words, except that the spoken words may be accompanied by incidental musical or other sounds, and

"(ii) the term 'incidental' means related to and relatively minor by comparison.

"(6) 'Distribute' means to sell, lease, or assign a product to consumers in the United States, or to sell, lease, or assign a product in the United States for ultimate transfer to consumers in the United States.

"(7) An 'interested copyright party' is—

"(A) the owner of the exclusive right under section 106(1) of this title to reproduce a sound recording of a

musical work that has been embodied in a digital musical recording or analog musical recording lawfully made under this title that has been distributed;

“(B) the legal or beneficial owner of, or the person that controls, the right to reproduce in a digital musical recording or analog musical recording a musical work that has been embodied in a digital musical recording or analog musical recording lawfully made under this title that has been distributed;

“(C) a featured recording artist who performs on a sound recording that has been distributed; or

“(D) any association or other organization—

“(i) representing persons specified in subparagraph (A), (B), or (C), or

“(ii) engaged in licensing rights in musical works to music users on behalf of writers and publishers.

“(8) To ‘manufacture’ means to produce or assemble a product in the United States. A ‘manufacturer’ is a person who manufactures.

“(9) A ‘music publisher’ is a person that is authorized to license the reproduction of a particular musical work in a sound recording.

“(10) A ‘professional model product’ is an audio recording device that is designed, manufactured, marketed, and intended for use by recording professionals in the ordinary course of a lawful business, in accordance with such requirements as the Secretary of Commerce shall establish by regulation.

“(11) The term ‘serial copying’ means the duplication in a digital format of a copyrighted musical work or sound recording from a digital reproduction of a digital musical recording. The term ‘digital reproduction of a digital musical recording’ does not include a digital musical recording as distributed, by authority of the copyright owner, for ultimate sale to consumers.

“(12) The ‘transfer price’ of a digital audio recording device or a digital audio recording medium—

“(A) is, subject to subparagraph (B)—

“(i) in the case of an imported product, the actual entered value at United States Customs (exclusive of any freight, insurance, and applicable duty), and

“(ii) in the case of a domestic product, the manufacturer’s transfer price (FOB the manufacturer, and exclusive of any direct sales taxes or excise taxes incurred in connection with the sale); and

“(B) shall, in a case in which the transferor and transferee are related entities or within a single entity, not be less than a reasonable arms-length price under the principles of the regulations adopted pursuant to section 482 of the Internal Revenue Code of 1986, or any successor provision to such section.

“(13) A ‘writer’ is the composer or lyricist of a particular musical work.

**"SUBCHAPTER B—COPYING CONTROLS****"§ 1002. Incorporation of copying controls**

"(a) PROHIBITION ON IMPORTATION, MANUFACTURE, AND DISTRIBUTION.—No person shall import, manufacture, or distribute any digital audio recording device or digital audio interface device that does not conform to—

"(1) the Serial Copy Management System;

"(2) a system that has the same functional characteristics as the Serial Copy Management System and requires that copyright and generation status information be accurately sent, received, and acted upon between devices using the system's method of serial copying regulation and devices using the Serial Copy Management System; or

"(3) any other system certified by the Secretary of Commerce as prohibiting unauthorized serial copying.

"(b) DEVELOPMENT OF VERIFICATION PROCEDURE.—The Secretary of Commerce shall establish a procedure to verify, upon the petition of an interested party, that a system meets the standards set forth in subsection (a)(2).

"(c) PROHIBITION ON CIRCUMVENTION OF THE SYSTEM.—No person shall import, manufacture, or distribute any device, or offer or perform any service, the primary purpose or effect of which is to avoid, bypass, remove, deactivate, or otherwise circumvent any program or circuit which implements, in whole or in part, a system described in subsection (a).

"(d) ENCODING OF INFORMATION ON DIGITAL MUSICAL RECORDINGS.—

"(1) PROHIBITION ON ENCODING INACCURATE INFORMATION.—No person shall encode a digital musical recording of a sound recording with inaccurate information relating to the category code, copyright status, or generation status of the source material for the recording.

"(2) ENCODING OF COPYRIGHT STATUS NOT REQUIRED.—Nothing in this chapter requires any person engaged in the importation or manufacture of digital musical recordings to encode any such digital musical recording with respect to its copyright status.

"(e) INFORMATION ACCOMPANYING TRANSMISSIONS IN DIGITAL FORMAT.—Any person who transmits or otherwise communicates to the public any sound recording in digital format is not required under this chapter to transmit or otherwise communicate the information relating to the copyright status of the sound recording. Any such person who does transmit or otherwise communicate such copyright status information shall transmit or communicate such information accurately.

**"SUBCHAPTER C—ROYALTY PAYMENTS****"§ 1003. Obligation to make royalty payments**

"(a) PROHIBITION ON IMPORTATION AND MANUFACTURE.—No person shall import into and distribute, or manufacture and distribute, any digital audio recording device or digital audio recording medium unless such person records the notice specified by this section and subsequently deposits the statements of account and applicable royalty payments for such device or medium specified in section 1004.

“(b) FILING OF NOTICE.—The importer or manufacturer of any digital audio recording device or digital audio recording medium, within a product category or utilizing a technology with respect to which such manufacturer or importer has not previously filed a notice under this subsection, shall file with the Register of Copyrights a notice with respect to such device or medium, in such form and content as the Register shall prescribe by regulation.

Regulations.

“(c) FILING OF QUARTERLY AND ANNUAL STATEMENTS OF ACCOUNT.—

“(1) GENERALLY.—Any importer or manufacturer that distributes any digital audio recording device or digital audio recording medium that it manufactured or imported shall file with the Register of Copyrights, in such form and content as the Register shall prescribe by regulation, such quarterly and annual statements of account with respect to such distribution as the Register shall prescribe by regulation.

Regulations.

“(2) CERTIFICATION, VERIFICATION, AND CONFIDENTIALITY.—Each such statement shall be certified as accurate by an authorized officer or principal of the importer or manufacturer. The Register shall issue regulations to provide for the verification and audit of such statements and to protect the confidentiality of the information contained in such statements. Such regulations shall provide for the disclosure, in confidence, of such statements to interested copyright parties.

Regulations.

“(3) ROYALTY PAYMENTS.—Each such statement shall be accompanied by the royalty payments specified in section 1004.

#### “§ 1004. Royalty payments

“(a) DIGITAL AUDIO RECORDING DEVICES.—

“(1) AMOUNT OF PAYMENT.—The royalty payment due under section 1003 for each digital audio recording device imported into and distributed in the United States, or manufactured and distributed in the United States, shall be 2 percent of the transfer price. Only the first person to manufacture and distribute or import and distribute such device shall be required to pay the royalty with respect to such device.

“(2) CALCULATION FOR DEVICES DISTRIBUTED WITH OTHER DEVICES.—With respect to a digital audio recording device first distributed in combination with one or more devices, either as a physically integrated unit or as separate components, the royalty payment shall be calculated as follows:

“(A) If the digital audio recording device and such other devices are part of a physically integrated unit, the royalty payment shall be based on the transfer price of the unit, but shall be reduced by any royalty payment made on any digital audio recording device included within the unit that was not first distributed in combination with the unit.

“(B) If the digital audio recording device is not part of a physically integrated unit and substantially similar devices have been distributed separately at any time during the preceding 4 calendar quarters, the royalty payment shall be based on the average transfer price of such devices during those 4 quarters.

“(C) If the digital audio recording device is not part of a physically integrated unit and substantially similar devices have not been distributed separately at any time

during the preceding 4 calendar quarters, the royalty payment shall be based on a constructed price reflecting the proportional value of such device to the combination as a whole.

“(3) LIMITS ON ROYALTIES.—Notwithstanding paragraph (1) or (2), the amount of the royalty payment for each digital audio recording device shall not be less than \$1 nor more than the royalty maximum. The royalty maximum shall be \$8 per device, except that in the case of a physically integrated unit containing more than 1 digital audio recording device, the royalty maximum for such unit shall be \$12. During the 6th year after the effective date of this chapter, and not more than once each year thereafter, any interested copyright party may petition the Copyright Royalty Tribunal to increase the royalty maximum and, if more than 20 percent of the royalty payments are at the relevant royalty maximum, the Tribunal shall prospectively increase such royalty maximum with the goal of having no more than 10 percent of such payments at the new royalty maximum; however the amount of any such increase as a percentage of the royalty maximum shall in no event exceed the percentage increase in the Consumer Price Index during the period under review.

“(b) DIGITAL AUDIO RECORDING MEDIA.—The royalty payment due under section 1003 for each digital audio recording medium imported into and distributed in the United States, or manufactured and distributed in the United States, shall be 3 percent of the transfer price. Only the first person to manufacture and distribute or import and distribute such medium shall be required to pay the royalty with respect to such medium.

#### “§ 1005. Deposit of royalty payments and deduction of expenses

“The Register of Copyrights shall receive all royalty payments deposited under this chapter and, after deducting the reasonable costs incurred by the Copyright Office under this chapter, shall deposit the balance in the Treasury of the United States as offsetting receipts, in such manner as the Secretary of the Treasury directs. All funds held by the Secretary of the Treasury shall be invested in interest-bearing United States securities for later distribution with interest under section 1007. The Register may, in the Register’s discretion, 4 years after the close of any calendar year, close out the royalty payments account for that calendar year, and may treat any funds remaining in such account and any subsequent deposits that would otherwise be attributable to that calendar year as attributable to the succeeding calendar year. The Register shall submit to the Copyright Royalty Tribunal, on a monthly basis, a financial statement reporting the amount of royalties under this chapter that are available for distribution.

Reports.

#### “§ 1006. Entitlement to royalty payments

“(a) INTERESTED COPYRIGHT PARTIES.—The royalty payments deposited pursuant to section 1005 shall, in accordance with the procedures specified in section 1007, be distributed to any interested copyright party—

“(1) whose musical work or sound recording has been—

"(A) embodied in a digital musical recording or an analog musical recording lawfully made under this title that has been distributed, and

"(B) distributed in the form of digital musical recordings or analog musical recordings or disseminated to the public in transmissions, during the period to which such payments pertain; and

"(2) who has filed a claim under section 1007.

"(b) ALLOCATION OF ROYALTY PAYMENTS TO GROUPS.—The royalty payments shall be divided into 2 funds as follows:

"(1) THE SOUND RECORDINGS FUND.—66⅔ percent of the royalty payments shall be allocated to the Sound Recordings Fund. 25⅘ percent of the royalty payments allocated to the Sound Recordings Fund shall be placed in an escrow account managed by an independent administrator jointly appointed by the interested copyright parties described in section 1001(7)(A) and the American Federation of Musicians (or any successor entity) to be distributed to nonfeatured musicians (whether or not members of the American Federation of Musicians or any successor entity) who have performed on sound recordings distributed in the United States. 1⅔ percent of the royalty payments allocated to the Sound Recordings Fund shall be placed in an escrow account managed by an independent administrator jointly appointed by the interested copyright parties described in section 1001(7)(A) and the American Federation of Television and Radio Artists (or any successor entity) to be distributed to nonfeatured vocalists (whether or not members of the American Federation of Television and Radio Artists or any successor entity) who have performed on sound recordings distributed in the United States. 40 percent of the remaining royalty payments in the Sound Recordings Fund shall be distributed to the interested copyright parties described in section 1001(7)(C), and 60 percent of such remaining royalty payments shall be distributed to the interested copyright parties described in section 1001(7)(A).

"(2) THE MUSICAL WORKS FUND.—

"(A) 33⅓ percent of the royalty payments shall be allocated to the Musical Works Fund for distribution to interested copyright parties described in section 1001(7)(B).

"(B)(i) Music publishers shall be entitled to 50 percent of the royalty payments allocated to the Musical Works Fund.

"(ii) Writers shall be entitled to the other 50 percent of the royalty payments allocated to the Musical Works Fund.

"(c) ALLOCATION OF ROYALTY PAYMENTS WITHIN GROUPS.—If all interested copyright parties within a group specified in subsection (b) do not agree on a voluntary proposal for the distribution of the royalty payments within each group, the Copyright Royalty Tribunal shall, pursuant to the procedures specified under section 1007(c), allocate royalty payments under this section based on the extent to which, during the relevant period—

"(1) for the Sound Recordings Fund, each sound recording was distributed in the form of digital musical recordings or analog musical recordings; and

"(2) for the Musical Works Fund, each musical work was distributed in the form of digital musical recordings or analog



musical recordings or disseminated to the public in transmissions.

**“§ 1007. Procedures for distributing royalty payments**

Regulations.

“(a) FILING OF CLAIMS AND NEGOTIATIONS.—

“(1) FILING OF CLAIMS.—During the first 2 months of each calendar year after the calendar year in which this chapter takes effect, every interested copyright party seeking to receive royalty payments to which such party is entitled under section 1006 shall file with the Copyright Royalty Tribunal a claim for payments collected during the preceding year in such form and manner as the Tribunal shall prescribe by regulation.

“(2) NEGOTIATIONS.—Notwithstanding any provision of the antitrust laws, for purposes of this section interested copyright parties within each group specified in section 1006(b) may agree among themselves to the proportionate division of royalty payments, may lump their claims together and file them jointly or as a single claim, or may designate a common agent, including any organization described in section 1001(7)(D), to negotiate or receive payment on their behalf; except that no agreement under this subsection may modify the allocation of royalties specified in section 1006(b).

“(b) DISTRIBUTION OF PAYMENTS IN THE ABSENCE OF A DISPUTE.—Within 30 days after the period established for the filing of claims under subsection (a), in each year after the year in which this section takes effect, the Copyright Royalty Tribunal shall determine whether there exists a controversy concerning the distribution of royalty payments under section 1006(c). If the Tribunal determines that no such controversy exists, the Tribunal shall, within 30 days after such determination, authorize the distribution of the royalty payments as set forth in the agreements regarding the distribution of royalty payments entered into pursuant to subsection (a), after deducting its reasonable administrative costs under this section.

“(c) RESOLUTION OF DISPUTES.—If the Tribunal finds the existence of a controversy, it shall, pursuant to chapter 8 of this title, conduct a proceeding to determine the distribution of royalty payments. During the pendency of such a proceeding, the Tribunal shall withhold from distribution an amount sufficient to satisfy all claims with respect to which a controversy exists, but shall, to the extent feasible, authorize the distribution of any amounts that are not in controversy. The Tribunal shall, before authorizing the distribution of such royalty payments, deduct its reasonable administrative costs under this section.

**“SUBCHAPTER D—PROHIBITION ON CERTAIN INFRINGEMENT ACTIONS, REMEDIES, AND ARBITRATION**

**“§ 1008. Prohibition on certain infringement actions**

“No action may be brought under this title alleging infringement of copyright based on the manufacture, importation, or distribution of a digital audio recording device, a digital audio recording medium, an analog recording device, or an analog recording medium, or based on the noncommercial use by a consumer of such a device or medium for making digital musical recordings or analog musical recordings.

**“§ 1009. Civil remedies**

“(a) CIVIL ACTIONS.—Any interested copyright party injured by a violation of section 1002 or 1003 may bring a civil action in an appropriate United States district court against any person for such violation.

“(b) OTHER CIVIL ACTIONS.—Any person injured by a violation of this chapter may bring a civil action in an appropriate United States district court for actual damages incurred as a result of such violation.

“(c) POWERS OF THE COURT.—In an action brought under subsection (a), the court—

“(1) may grant temporary and permanent injunctions on such terms as it deems reasonable to prevent or restrain such violation;

“(2) in the case of a violation of section 1002, or in the case of an injury resulting from a failure to make royalty payments required by section 1003, shall award damages under subsection (d);

“(3) in its discretion may allow the recovery of costs by or against any party other than the United States or an officer thereof; and

“(4) in its discretion may award a reasonable attorney's fee to the prevailing party.

“(d) AWARD OF DAMAGES.—

“(1) DAMAGES FOR SECTION 1002 OR 1003 VIOLATIONS.—

“(A) ACTUAL DAMAGES.—(i) In an action brought under subsection (a), if the court finds that a violation of section 1002 or 1003 has occurred, the court shall award to the complaining party its actual damages if the complaining party elects such damages at any time before final judgment is entered.

“(ii) In the case of section 1003, actual damages shall constitute the royalty payments that should have been paid under section 1004 and deposited under section 1005. In such a case, the court, in its discretion, may award an additional amount of not to exceed 50 percent of the actual damages.

“(B) STATUTORY DAMAGES FOR SECTION 1002 VIOLATIONS.—

“(i) DEVICE.—A complaining party may recover an award of statutory damages for each violation of section 1002 (a) or (c) in the sum of not more than \$2,500 per device involved in such violation or per device on which a service prohibited by section 1002(c) has been performed, as the court considers just.

“(ii) DIGITAL MUSICAL RECORDING.—A complaining party may recover an award of statutory damages for each violation of section 1002(d) in the sum of not more than \$25 per digital musical recording involved in such violation, as the court considers just.

“(iii) TRANSMISSION.—A complaining party may recover an award of damages for each transmission or communication that violates section 1002(e) in the sum of not more than \$10,000, as the court considers just.

“(2) REPEATED VIOLATIONS.—In any case in which the court finds that a person has violated section 1002 or 1003 within

3 years after a final judgment against that person for another such violation was entered, the court may increase the award of damages to not more than double the amounts that would otherwise be awarded under paragraph (1), as the court considers just.

"(3) INNOCENT VIOLATIONS OF SECTION 1002.—The court in its discretion may reduce the total award of damages against a person violating section 1002 to a sum of not less than \$250 in any case in which the court finds that the violator was not aware and had no reason to believe that its acts constituted a violation of section 1002.

"(e) PAYMENT OF DAMAGES.—Any award of damages under subsection (d) shall be deposited with the Register pursuant to section 1005 for distribution to interested copyright parties as though such funds were royalty payments made pursuant to section 1003.

"(f) IMPOUNDING OF ARTICLES.—At any time while an action under subsection (a) is pending, the court may order the impounding, on such terms as it deems reasonable, of any digital audio recording device, digital musical recording, or device specified in section 1002(c) that is in the custody or control of the alleged violator and that the court has reasonable cause to believe does not comply with, or was involved in a violation of, section 1002.

"(g) REMEDIAL MODIFICATION AND DESTRUCTION OF ARTICLES.—In an action brought under subsection (a), the court may, as part of a final judgment or decree finding a violation of section 1002, order the remedial modification or the destruction of any digital audio recording device, digital musical recording, or device specified in section 1002(c) that—

"(1) does not comply with, or was involved in a violation of, section 1002, and

"(2) is in the custody or control of the violator or has been impounded under subsection (f).

#### **"§ 1010. Arbitration of certain disputes**

"(a) SCOPE OF ARBITRATION.—Before the date of first distribution in the United States of a digital audio recording device or a digital audio interface device, any party manufacturing, importing, or distributing such device, and any interested copyright party may mutually agree to binding arbitration for the purpose of determining whether such device is subject to section 1002, or the basis on which royalty payments for such device are to be made under section 1003.

"(b) INITIATION OF ARBITRATION PROCEEDINGS.—Parties agreeing to such arbitration shall file a petition with the Copyright Royalty Tribunal requesting the commencement of an arbitration proceeding. The petition may include the names and qualifications of potential arbitrators. Within 2 weeks after receiving such a petition, the Tribunal shall cause notice to be published in the Federal Register of the initiation of an arbitration proceeding. Such notice shall include the names and qualifications of 3 arbitrators chosen by the Tribunal from a list of available arbitrators obtained from the American Arbitration Association or such similar organization as the Tribunal shall select, and from potential arbitrators listed in the parties' petition. The arbitrators selected under this subsection shall constitute an Arbitration Panel.

"(c) STAY OF JUDICIAL PROCEEDINGS.—Any civil action brought under section 1009 against a party to arbitration under this section

shall, on application of one of the parties to the arbitration, be stayed until completion of the arbitration proceeding.

“(d) ARBITRATION PROCEEDING.—The Arbitration Panel shall conduct an arbitration proceeding with respect to the matter concerned, in accordance with such procedures as it may adopt. The Panel shall act on the basis of a fully documented written record. Any party to the arbitration may submit relevant information and proposals to the Panel. The parties to the proceeding shall bear the entire cost thereof in such manner and proportion as the Panel shall direct.

“(e) REPORT TO COPYRIGHT ROYALTY TRIBUNAL.—Not later than 60 days after publication of the notice under subsection (b) of the initiation of an arbitration proceeding, the Arbitration Panel shall report to the Copyright Royalty Tribunal its determination concerning whether the device concerned is subject to section 1002, or the basis on which royalty payments for the device are to be made under section 1003. Such report shall be accompanied by the written record, and shall set forth the facts that the Panel found relevant to its determination.

“(f) ACTION BY THE COPYRIGHT ROYALTY TRIBUNAL.—Within 60 days after receiving the report of the Arbitration Panel under subsection (e), the Copyright Royalty Tribunal shall adopt or reject the determination of the Panel. The Tribunal shall adopt the determination of the Panel unless the Tribunal finds that the determination is clearly erroneous. If the Tribunal rejects the determination of the Panel, the Tribunal shall, before the end of that 60-day period, and after full examination of the record created in the arbitration proceeding, issue an order setting forth its decision and the reasons therefor. The Tribunal shall cause to be published in the Federal Register the determination of the Panel and the decision of the Tribunal under this subsection with respect to the determination (including any order issued under the preceding sentence).

Federal  
Register,  
publication.

“(g) JUDICIAL REVIEW.—Any decision of the Copyright Royalty Tribunal under subsection (f) with respect to a determination of the Arbitration Panel may be appealed, by a party to the arbitration, to the United States Court of Appeals for the District of Columbia Circuit, within 30 days after the publication of the decision in the Federal Register. The pendency of an appeal under this subsection shall not stay the Tribunal's decision. The court shall have jurisdiction to modify or vacate a decision of the Tribunal only if it finds, on the basis of the record before the Tribunal, that the Arbitration Panel or the Tribunal acted in an arbitrary manner. If the court modifies the decision of the Tribunal, the court shall have jurisdiction to enter its own decision in accordance with its final judgment. The court may further vacate the decision of the Tribunal and remand the case for arbitration proceedings as provided in this section.”.

### SEC. 3. TECHNICAL AMENDMENTS.

(a) FUNCTIONS OF REGISTER.—Chapter 8 of title 17, United States Code is amended—

(1) in section 801(b)—

(A) by striking “and” at the end of paragraph (2);

(B) by striking the period at the end of paragraph

(3) and inserting “; and”; and

(C) by adding the following new paragraph at the end:

“(4) to distribute royalty payments deposited with the Register of Copyrights under section 1003, to determine the distribution of such payments, and to carry out its other responsibilities under chapter 10”; and

(2) in section 804(d)—

(A) by inserting “or (4)” after “801(b)(3)”; and

(B) by striking “or 119” and inserting “119, or 1007”.

(b) **DEFINITIONS.**—Section 101 of title 17, United States Code, is amended by striking “As used” and inserting “Except as otherwise provided in this title, as used”.

(c) **MASK WORKS.**—Section 912 of title 17, United States Code, is amended—

(1) in subsection (a) by inserting “or 10” after “8”; and

(2) in subsection (b) by inserting “or 10” after “8”.

(d) **CONFORMING AMENDMENT TO SECTION 337 OF THE TARIFF ACT OF 1930.**—The second sentence of section 337(b)(3) of the Tariff Act of 1930 (19 U.S.C. 1337(b)(3)) is amended to read as follows: “If the Commission has reason to believe that the matter before it (A) is based solely on alleged acts and effects which are within the purview of section 303, 671, or 673, or (B) relates to an alleged copyright infringement with respect to which action is prohibited by section 1008 of title 17, United States Code, the Commission shall terminate, or not institute, any investigation into the matter.”.

17 USC 1001  
note.

#### SEC. 4. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

Approved October 28, 1992.

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#### LEGISLATIVE HISTORY—S. 1623 (H.R. 3204):

HOUSE REPORTS: No. 102-873, Pt. 1 (Comm. on the Judiciary) and Pt. 2 (Comm. on Ways and Means) both accompanying H.R. 3204.

SENATE REPORTS: No. 102-294 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 138 (1992):

June 17, considered and passed Senate.

Sept. 22, H.R. 3204 considered and passed House; S. 1623, amended, passed in lieu.

Oct. 7, Senate concurred in House amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):

Oct. 28, Presidential statement.

Public Law 102-564  
102d Congress

An Act

To provide the Administrator of the Small Business Administration continued authority to administer the Small Business Innovation Research Program, and for other purposes.

Oct. 28, 1992  
[S. 2941]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Small Business Research and Development Enhancement Act of 1992”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

**TITLE I—SMALL BUSINESS INNOVATION RESEARCH PROGRAM**

Sec. 101. Short title.

Sec. 102. Findings and purposes.

Sec. 103. Amendments to small business innovation research program.

Sec. 104. Extension of SBIR program.

Sec. 105. Reports of the Comptroller General.

Sec. 106. Recommendations of the Secretary of Defense.

**TITLE II—SMALL BUSINESS TECHNOLOGY TRANSFER PILOT PROGRAM**

Sec. 201. Short title.

Sec. 202. Establishment of small business technology transfer pilot program.

**TITLE III—MISCELLANEOUS PROVISIONS**

Sec. 301. Discretionary technical assistance to SBIR awardees.

Sec. 302. Extension of the technology transfer demonstration program.

Sec. 303. Reporting requirements.

Sec. 304. Small Business Institutes.

Sec. 305. Additional SBIR and STTR provisions.

Sec. 306. Sense of the Congress concerning American-made equipment and products.

Sec. 307. Technical corrections.

**TITLE I—SMALL BUSINESS INNOVATION RESEARCH PROGRAM**

**SEC. 101. SHORT TITLE.**

This title may be cited as the “Small Business Innovation Research Program Reauthorization Act of 1992”.

**SEC. 102. FINDINGS AND PURPOSES.**

(a) **FINDINGS.**—The Congress finds that—

(1) the small business innovation research program established under the Small Business Innovation Development Act of 1982 (hereafter in this Act referred to as the “SBIR” program) has been a successful method of involving small business concerns in Federal research and development;

Small Business  
Research and  
Development  
Enhancement  
Act of 1992.  
15 USC 631  
note.

Small Business  
Innovation  
Research  
Program  
Reauthorization  
Act of 1992.  
15 USC 631  
note.

15 USC 638  
note.

(2) the small business innovation research program has been an effective catalyst for the development of technological innovations by small business concerns;

(3) small business innovation research program participants have provided high quality research and development in a cost-effective manner;

(4) the innovative products and services developed by small business concerns participating in the small business innovation research program have been important to the national defense, as well as to the missions of the other participating Federal agencies;

(5) the small business innovation research program has effectively stimulated the commercialization of technology developed through Federal research and development, benefiting both the public and private sectors of the Nation;

(6) by encouraging the development and commercialization of technological innovations, the small business innovation research program has created jobs, expanded business opportunities for small firms, stimulated the development of new products and services, and improved the competitiveness of the Nation's high technology industries;

(7) the small business innovation research program has also helped to increase exports from small business concerns;

(8) despite the general success of the small business innovation research program, the proportion of Federal research and development funds received by small business concerns has not increased over the life of the program, but has remained at 3 percent; and

(9) although the participating Federal agencies have successfully implemented most aspects of the small business innovation research program, additional outreach efforts are necessary to stimulate increased participation of socially and economically disadvantaged small business concerns.

(b) PURPOSES.—The purposes of this title are—

(1) to expand and improve the small business innovation research program;

(2) to emphasize the program's goal of increasing private sector commercialization of technology developed through Federal research and development;

(3) to increase small business participation in Federal research and development; and

(4) to improve the Federal Government's dissemination of information concerning the small business innovation research program, particularly with regard to program participation by women-owned small business concerns and by socially and economically disadvantaged small business concerns.

#### SEC. 103. AMENDMENTS TO SMALL BUSINESS INNOVATION RESEARCH PROGRAM.

(a) DEFINITION OF THE SMALL BUSINESS INNOVATION RESEARCH PROGRAM.—Section 9(e)(4) of the Small Business Act (15 U.S.C. 638(e)(4)) is amended—

(1) in subparagraph (A), by inserting "that appear to have commercial potential, as described in subparagraph (B)(ii)," after "ideas"; and

(2) by striking subparagraphs (B) and (C) and inserting the following:

“(B) a second phase, to further develop proposals which meet particular program needs, in which awards shall be made based on the scientific and technical merit and feasibility of the proposals, as evidenced by the first phase, considering, among other things, the proposal’s commercial potential, as evidenced by—

“(i) the small business concern’s record of successfully commercializing SBIR or other research;

“(ii) the existence of second phase funding commitments from private sector or non-SBIR funding sources;

“(iii) the existence of third phase, follow-on commitments for the subject of the research; and

“(iv) the presence of other indicators of the commercial potential of the idea; and

“(C) where appropriate, a third phase—

“(i) in which commercial applications of SBIR-funded research or research and development are funded by non-Federal sources of capital or, for products or services intended for use by the Federal Government, by follow-on non-SBIR Federal funding awards; and

“(ii) for which awards from non-SBIR Federal funding sources are used for the continuation of research or research and development that has been competitively selected using peer review or scientific review criteria; and”.

(b) REQUIRED EXPENDITURES FOR SBIR BY FEDERAL AGENCIES.—Section 9(f) of the Small Business Act (15 U.S.C. 638(f)) is amended to read as follows:

“(f) FEDERAL AGENCY EXPENDITURES FOR THE SBIR PROGRAM.—

“(1) REQUIRED EXPENDITURE AMOUNTS.—Each Federal agency which has an extramural budget for research or research and development in excess of \$100,000,000 for fiscal year 1992, or any fiscal year thereafter, shall expend with small business concerns—

“(A) not less than 1.5 percent of such budget in each of fiscal years 1993 and 1994;

“(B) not less than 2.0 percent of such budget in each of fiscal years 1995 and 1996; and

“(C) not less than 2.5 percent of such budget in each fiscal year thereafter,

specifically in connection with SBIR programs which meet the requirements of this section, policy directives, and regulations issued under this section.

“(2) LIMITATIONS.—A Federal agency shall not—

“(A) use any of its SBIR budget established pursuant to paragraph (1) for the purpose of funding administrative costs of the program, including costs associated with salaries and expenses; or

“(B) make available for the purpose of meeting the requirements of paragraph (1) an amount of its extramural budget for basic research which exceeds the percentages specified in paragraph (1).

“(3) EXCLUSION OF CERTAIN FUNDING AGREEMENTS.—Funding agreements with small business concerns for research or research and development which result from competitive or single source selections other than an SBIR program shall



not be considered to meet any portion of the percentage requirements of paragraph (1).”

(c) INCLUSION OF CERTAIN DEPARTMENT OF DEFENSE RESEARCH AND DEVELOPMENT ACTIVITIES.—Section 9(e) of the Small Business Act (15 U.S.C. 638(e)) is amended in paragraph (1), by striking “for the Department of Defense” and all that follows through “development” and inserting “for the Department of Energy it shall not include amounts obligated for atomic energy defense programs solely for weapons activities or for naval reactor programs”.

(d) SBIR SOLICITATIONS.—Section 9(g) of the Small Business Act (15 U.S.C. 638(g)) is amended—

(1) by redesignating paragraphs (3) through (7) as paragraphs (4) through (8), respectively; and

(2) by inserting after paragraph (2) the following new paragraph:

“(3) unilaterally determine research topics within the agency’s SBIR solicitations, giving special consideration to broad research topics and to topics that further 1 or more critical technologies, as identified by—

“(A) the National Critical Technologies Panel (or its successor) in the 1991 report required under section 603 of the National Science and Technology Policy, Organization, and Priorities Act of 1976, and in subsequent reports issued under that authority; or

“(B) the Secretary of Defense, in the 1992 report issued in accordance with section 2522 of title 10, United States Code, and in subsequent reports issued under that authority.”

(e) DEADLINE FOR FINAL PAYMENT UNDER SBIR FUNDING AGREEMENTS.—Section 9(g)(7) of the Small Business Act (15 U.S.C. 638(g)(7)) (as redesignated by subsection (d)(1)) is amended by inserting before the semicolon the following: “and, in all cases, make payment to recipients under such agreements in full, subject to audit, on or before the last day of the 12-month period beginning on the date of completion of such requirements”.

(f) MODIFICATIONS TO SBIR POLICY DIRECTIVES.—Section 9(j) of the Small Business Act (15 U.S.C. 638(j)) is amended—

(1) in paragraph (2), by redesignating subparagraphs (A) through (H) as clauses (i) through (viii), respectively;

(2) by redesignating paragraphs (1) through (7) as subparagraphs (A) through (G), respectively;

(3) by inserting before “The Small Business Administration” the following:

“(1) POLICY DIRECTIVES.—”; and

(4) by adding at the end the following new paragraph:

“(2) MODIFICATIONS.—Not later than 90 days after the date of enactment of the Small Business Research and Development Enhancement Act of 1992, the Administrator shall modify the policy directives issued pursuant to this subsection to provide for—

“(A) retention by a small business concern of the rights to data generated by the concern in the performance of an SBIR award for a period of not less than 4 years;

“(B) continued use by a small business concern participating in the third phase of the SBIR program, as a directed bailment, of any property transferred by a Federal agency to the small business concern in the second phase

of an SBIR program for a period of not less than 2 years, beginning on the initial date of the concern's participation in the third phase of such program;

“(C) procedures to ensure, to the extent practicable, that an agency which intends to pursue research, development, or production of a technology developed by a small business concern under an SBIR program enters into follow-on, non-SBIR funding agreements with the small business concern for such research, development, or production;

“(D) an increase to \$100,000 in the amount of funds which an agency may award in the first phase of an SBIR program, and to \$750,000 in the second phase of an SBIR program, and an adjustment of such amounts once every 5 years to reflect economic adjustments and programmatic considerations;

“(E) a process for notifying the participating SBIR agencies and potential SBIR participants of the 1991, 1992, and the current critical technologies, as identified—

“(i) by the National Critical Technologies Panel (or its successor), in accordance with section 603 of the National Science and Technology Policy, Organization, and Priorities Act of 1976; or

“(ii) by the Secretary of Defense, in accordance with section 2522 of title 10, United States Code;

“(F) enhanced outreach efforts to increase the participation of socially and economically disadvantaged small business concerns, as defined in section 8(a)(4), and the participation of small businesses that are 51 percent owned and controlled by women in technological innovation and in SBIR programs, including the third phase of such programs, and the collection of data to document such participation;

“(G) technical and programmatic guidance to encourage agencies to develop gap-funding programs to address the delay between an award for the first phase of an SBIR program and the application for and extension of an award for the second phase of such program;

“(H) procedures to ensure that a small business concern that submits a proposal for a funding agreement for the first phase of an SBIR program and that has received more than 15 second phase SBIR awards during the preceding 5 fiscal years is able to demonstrate the extent to which it was able to secure third phase funding to develop concepts resulting from previous second phase SBIR awards; and

“(I) procedures to ensure that agencies participating in the SBIR program retain the information submitted under subparagraph (H) at least until the General Accounting Office submits the report required under section 105 of the Small Business Research and Development Enhancement Act of 1992.”.

(g) **ELIMINATION OF SURVEYING AND REPORTING REQUIREMENT.**—Section 9(k) of the Small Business Act (15 U.S.C. 638(k)) is amended to read as follows:

“(k) [Reserved].”.

(h) **REPORTING OF AWARDS MADE FROM SINGLE PROPOSAL, TO MULTIPLE AWARD WINNERS, OR TO CRITICAL TECHNOLOGY TOPICS.**—

(1) **IN GENERAL.**—Section 9 of the Small Business Act (15 U.S.C. 638) is amended by adding at the end the following new subsection:

“(l) **REPORTING OF AWARDS MADE FROM SINGLE PROPOSAL, TO MULTIPLE AWARD WINNERS, OR TO CRITICAL TECHNOLOGY TOPICS.**—

“(1) **SINGLE PROPOSAL.**—If a Federal agency required to establish an SBIR program under subsection (f) makes an award with respect to an SBIR solicitation topic or subtopic for which the agency received only 1 proposal, the agency shall provide written justification for making the award in its next quarterly report to the Administration and in the agency's next annual report required under subsection (g)(8).

“(2) **MULTIPLE AWARDS.**—An agency referred to in paragraph (1) shall include in its next annual report required under subsection (g)(8) an accounting of the awards the agency has made for the first phase of an SBIR program during the reporting period to entities that have received more than 15 awards for the second phase of an SBIR program during the preceding 5 fiscal years.

“(3) **CRITICAL TECHNOLOGY AWARDS.**—An agency referred to in paragraph (1) shall include in its next annual report required under subsection (g)(8), an accounting of the number of awards it has made to critical technology topics, as defined in subsection (g)(3), including an identification of the specific critical technologies topics, and the percentage by number and dollar amount of the agency's total SBIR awards to such critical technology topics.”.

(2) **CONFORMING AMENDMENT.**—Section 9(g)(5) of the Small Business Act (15 U.S.C. 638(g)(5)) (as redesignated by subsection (d)) is amended by inserting “subject to subsection (l),” before “unilaterally”.

(i) **INFORMATION ON ALLOWABLE EXPENSES.**—Section 9(g)(5) of the Small Business Act (as redesignated by subsection (d)) is amended by inserting before the semicolon the following: “and inform each awardee under such an agreement, to the extent possible, of the expenses of the awardee that will be allowable under the funding agreement”.

#### **SEC. 104. EXTENSION OF SBIR PROGRAM.**

(a) **REPEAL PROVISION.**—Section 5 of the Small Business Innovation Development Act of 1982 is hereby repealed.

(b) **TERMINATION DATE.**—Section 9 of the Small Business Act (15 U.S.C. 638) is amended by adding at the end the following:

“(m) **TERMINATION.**—The authorization to carry out the Small Business Innovation Research Program under this section shall terminate on October 1, 2000.”.

#### **SEC. 105. REPORTS OF THE COMPTROLLER GENERAL.**

(a) **INTERIM REPORT.**—

(1) **IN GENERAL.**—The Comptroller General of the United States shall submit to the Congress an interim report concerning the quality of research performed under SBIR program funding agreements entered into during fiscal year 1993 and thereafter. Copies of the interim report shall be furnished to each agency that has participated in the SBIR program in fiscal year 1993 or thereafter.

(2) **CONTENTS OF REPORT.**—The Comptroller General shall include in the interim report required under paragraph (1)—

15 USC 638  
and note.

15 USC 638  
note.

(A) an assessment of the quality of the research performed under the SBIR program funding agreements entered into by each agency that has participated in the SBIR program beginning in fiscal year 1993 or thereafter, specifically addressing—

(i) with respect to each such agency, whether or not there has been a demonstrable reduction in research quality; and

(ii) in the case of such reduction, whether an increase in each such agency's required SBIR participation in accordance with section 9(f)(1) of the Small Business Act (as amended by subsection (b) of this section) would adversely affect the performance of the agency's research programs;

(B) an analysis of the program authorized by section 301 of the Small Business Research and Development Enhancement Act of 1992, considering, among other things—

(i) the extent to which each SBIR agency has implemented the program and the extent to which the program has improved the quality of agency-sponsored research and development;

(ii) the effect of the program on recipient companies' ability to develop and commercialize technology;

(iii) the cost of the program and the average cost per recipient company; and

(iv) the extent to which SBIR companies continue to use the service after completion of the program; and

(C) such other factors as the Comptroller General may deem appropriate.

(b) **FINAL REPORT.**—The Comptroller General of the United States shall transmit to the Congress a final report containing—

(1) a review of the progress made by Federal agencies in meeting the requirements of section 9(f) of the Small Business Act (as amended by this Act), including increases in expenditures required by that subsection;

(2) an analysis of participation by small business concerns in the third phase of SBIR programs, including a systematic evaluation of the techniques adopted by Federal agencies to foster commercialization;

(3) an analysis of the extent to which awards under SBIR programs are made pursuant to section 9(l) of the Small Business Act (as added by section 103(h)) in cases in which a program solicitation receives only 1 proposal;

(4) an analysis of the extent to which awards in the first phase of the SBIR program are made to small business concerns that have received more than 15 second phase awards under the SBIR program in the preceding 5 fiscal years, considering—

(A) the extent to which such concerns were able to secure Federal or private sector follow-on funding;

(B) the extent to which the research developed under such awards was commercialized; and

(C) the amount of commercialization of research developed under such awards, as compared to the amount of commercialization of SBIR research for the entire SBIR program;

(5) the results of periodic random audits of the extramural budget of each such Federal agency;

(6) a review of the extent to which the purposes of this title and the Small Business Innovation Development Act of 1982 have been met with regard to fostering and encouraging the participation of women-owned small business concerns and socially and economically disadvantaged small business concerns (as defined in the Small Business Act) in technological innovation, in general, and the SBIR program, in particular;

(7) an analysis of the effectiveness of the SBIR program in promoting the development of the critical technologies identified by the Secretary of Defense and the National Critical Technologies Panel (or its successor), as described in subparagraph 9(j)(2)(E) of the Small Business Act;

(8) an analysis of the impact of agency application review periods and funding cycles on SBIR program awardees' financial status and ability to commercialize; and

(9) recommendations to the Congress for tracking the extent to which foreign firms, or United States firms with substantial foreign ownership interests, benefit from technology or products developed as a direct result of SBIR research or research and development.

(c) DATES OF SUBMISSION.—The report required—

(1) under subsection (a), shall be submitted to the Congress not later than March 31, 1995; and

(2) under subsection (b), shall be submitted to the Congress not later than 5 years after the date of enactment of this title.

15 USC 638  
note.

#### SEC. 106. RECOMMENDATIONS OF THE SECRETARY OF DEFENSE.

Not later than March 31, 1996, the Secretary of Defense shall submit a recommendation to the Congress addressing whether there has been a demonstrable reduction in the quality of research performed under the SBIR program since the beginning of fiscal year 1993, such that increasing the percentage under section 9(f)(1)(C) of the Small Business Act (as amended by section 103 of this Act) would adversely affect the performance of the research programs of the Department of Defense.

Small Business  
Technology  
Transfer  
Act of 1992.

## TITLE II—SMALL BUSINESS TECHNOLOGY TRANSFER PILOT PROGRAM

15 USC 631  
note.

#### SEC. 201. SHORT TITLE.

This title may be cited as the "Small Business Technology Transfer Act of 1992".

#### SEC. 202. ESTABLISHMENT OF SMALL BUSINESS TECHNOLOGY TRANSFER PILOT PROGRAM.

(a) ADDITIONAL SBA DUTIES.—Section 9(b) of the Small Business Act (15 U.S.C. 638(b)) is amended—

(1) in paragraph (4), by inserting "and small business technology transfer pilot programs" after "small business innovation research programs"; and

(2) in paragraphs (5), (6), and (7), by inserting "and STTR" after "SBIR" each place such term appears.

(b) **SMALL BUSINESS TECHNOLOGY TRANSFER PILOT PROGRAM DEFINED.**—Section 9(e) of the Small Business Act (15 U.S.C. 638(e)) is amended—

- (1) in paragraph (4), by striking “and” at the end;
- (2) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

“(6) the term ‘Small Business Technology Transfer Program’ or ‘STTR’ means a pilot program under which a portion of a Federal agency’s extramural research or research and development effort is reserved for award to small business concerns for cooperative research and development through a uniform process having—

“(A) a first phase, to determine, to the extent possible, the scientific, technical, and commercial merit and feasibility of ideas submitted pursuant to STTR program solicitations;

“(B) a second phase, to further develop proposed ideas to meet particular program needs, in which awards shall be made based on the scientific, technical, and commercial merit and feasibility of the idea, as evidenced by the first phase and by other relevant information; and

“(C) where appropriate, a third phase—

“(i) in which commercial applications of STTR-funded research or research and development are funded by non-Federal sources of capital or, for products or services intended for use by the Federal Government, by follow-on non-STTR Federal funding awards; and

“(ii) for which awards from non-STTR Federal funding sources are used for the continuation of research or research and development that has been competitively selected using peer review or scientific review criteria;

“(7) the term ‘cooperative research and development’ means research or research and development conducted jointly by a small business concern and a research institution in which not less than 40 percent of the work is performed by the small business concern, and not less than 30 percent of the work is performed by the research institution; and

“(8) the term ‘research institution’ means a nonprofit institution, as defined in section 4(5) of the Stevenson-Wydler Technology Innovation Act of 1980, and includes federally funded research and development centers, as identified by the National Scientific Foundation in accordance with the governmentwide Federal Acquisition Regulation issued in accordance with section 35(c)(1) of the Office of Federal Procurement Policy Act (or any successor regulation thereto).”

(c) **ESTABLISHMENT OF SMALL BUSINESS TECHNOLOGY TRANSFER PROGRAMS BY CERTAIN FEDERAL AGENCIES.**—Section 9 of the Small Business Act (15 U.S.C. 638) is amended by adding at the end the following new subsections:

“(n) **REQUIRED EXPENDITURES FOR STTR BY FEDERAL AGENCIES.**—

“(1) **REQUIRED EXPENDITURE AMOUNTS.**—Each Federal agency which has an extramural budget for research or research and development in excess of \$1,000,000,000 in fiscal year

Decorations,  
medals,  
awards.  
Contracts.

1994, 1995, or 1996, is authorized to expend with small business concerns—

“(A) not less than 0.05 percent of such budget in fiscal year 1994;

“(B) not less than 0.1 percent of such budget in fiscal year 1995; and

“(C) not less than 0.15 percent of such budget in fiscal year 1996,

specifically in connection with STTR programs which meet the requirements of this section, policy directives, and regulations issued under this section.

“(2) LIMITATIONS.—A Federal agency shall not—

“(A) use any of its STTR budget established pursuant to paragraph (1) for the purpose of funding administrative costs of the program, including costs associated with salaries and expenses, or, in the case of a small business concern or a research institution, costs associated with salaries, expenses, and administrative overhead (other than those direct or indirect costs allowable under guidelines of the Office of Management and Budget and the governmentwide Federal Acquisition Regulation issued in accordance with section 25(c)(1) of the Office of Federal Procurement Policy Act); or

“(B) make available for the purpose of meeting the requirements of paragraph (1) an amount of its extramural budget for basic research which exceeds the percentage specified in paragraph (1).

“(3) EXCLUSION OF CERTAIN FUNDING AGREEMENTS.—Funding agreements with small business concerns for research or research and development which result from competitive or single source selections other than an STTR program shall not be considered to meet any portion of the percentage requirements of paragraph (1).

“(o) FEDERAL AGENCY STTR AUTHORITY.—Each Federal agency required to establish an STTR program in accordance with subsection (n) and regulations issued under this Act, shall—

“(1) unilaterally determine categories of projects to be included in its STTR program;

“(2) issue STTR solicitations in accordance with a schedule determined cooperatively with the Administration;

“(3) unilaterally determine research topics within the agency's STTR solicitations, giving special consideration to broad research topics and to topics that further 1 or more critical technologies, as identified—

“(A) by the National Critical Technologies Panel (or its successor) in reports required under section 603 of the National Science and Technology Policy, Organization, and Priorities Act of 1976; or

“(B) by the Secretary of Defense, in accordance with section 2522 of title 10, United States Code;

“(4) unilaterally receive and evaluate proposals resulting from STTR solicitations;

“(5) unilaterally select awardees for its STTR funding agreements and inform each awardee under such an agreement, to the extent possible, of the expenses of the awardee that will be allowable under the funding agreement;

"(6) administer its own STTR funding agreements (or delegate such administration to another agency);

"(7) make payments to recipients of STTR funding agreements on the basis of progress toward or completion of the funding agreement requirements and, in all cases, make payment to recipients under such agreements in full, subject to audit, on or before the last day of the 12-month period beginning on the date of the completion of such requirements;

"(8) submit an annual report on the STTR program to the Administration and the Office of Science and Technology Policy; Reports.

"(9) develop a model agreement not later than July 31, 1993, to be approved by the Administration, for allocating between small business concerns and research institutions intellectual property rights and rights, if any, to carry out follow-on research, development, or commercialization;

"(10) develop, in consultation with the Office of Federal Procurement Policy and the Office of Government Ethics, procedures to ensure that federally funded research and development centers (as defined in subsection (e)(8)) that participate in STTR agreements—

"(A) are free from organizational conflicts of interests relative to the STTR program;

"(B) do not use privileged information gained through work performed for an STTR agency or private access to STTR agency personnel in the development of an STTR proposal; and

"(C) use outside peer review, as appropriate; and

"(11) not later than July 31, 1993, develop procedures for assessing the commercial merit and feasibility of STTR proposals, as evidenced by—

"(A) the small business concern's record of successfully commercializing STTR or other research;

"(B) the existence of second phase funding commitments from private sector or non-STTR funding sources;

"(C) the existence of third phase follow-on commitments for the subject of the research; and

"(D) the presence of other indicators of the commercial potential of the idea.

"(p) STTR POLICY DIRECTIVE.—

"(1) ISSUANCE.—The Administrator shall issue a policy directive for the general conduct of the STTR programs within the Federal Government. Such policy directive shall be issued after consultation with—

"(A) the heads of each of the Federal agencies required by subsection (n) to establish an STTR program;

"(B) the Commissioner of Patents and Trademarks; and

"(C) the Director of the Office of Federal Procurement Policy.

"(2) CONTENTS.—The policy directive required by paragraph (1) shall provide for—

"(A) simplified, standardized, and timely STTR solicitations;

"(B) a simplified, standardized funding process that provides for—

"(i) the timely receipt and review of proposals;



"(ii) outside peer review, if appropriate;  
 "(iii) protection of proprietary information provided in proposals;

"(iv) selection of awardees;

"(v) retention by a small business concern of the rights to data generated by the concern in the performance of an STTR award for a period of not less than 4 years;

"(vi) continued use by a small business concern, as a directed bailment, of any property transferred by a Federal agency to the small business concern in the second phase of the STTR program for a period of not less than 2 years, beginning on the initial date of the concern's participation in the third phase of such program;

"(vii) cost sharing;

"(viii) cost principles and payment schedules; and

"(ix) 1-year awards for the first phase of an STTR program, generally not to exceed \$100,000, and 2-year awards for the second phase of an STTR program, generally not to exceed \$500,000, greater or lesser amounts to be awarded at the discretion of the awarding agency;

"(C) minimizing regulatory burdens associated with participation in STTR programs;

"(D) guidelines for a model agreement, to be used by all agencies, for allocating between small business concerns and research institutions intellectual property rights and rights, if any, to carry out follow-on research, development, or commercialization;

"(E) procedures to ensure that—

"(i) a recipient of an STTR award is a small business concern, as defined in section 3 and the regulations promulgated thereunder; and

"(ii) such small business concern exercises management and control of the performance of the STTR funding agreement pursuant to a business plan providing for the commercialization of the technology that is the subject matter of the award; and

"(F) procedures to ensure, to the extent practicable, that an agency which intends to pursue research, development, or production of a technology developed by a small business concern under an STTR program enters into follow-on, non-STTR funding agreements with the small business concern for such research, development, or production."

(d) **TIMING OF ISSUANCE OF POLICY DIRECTIVE.**—The policy directive required by section 9(p) of the Small Business Act (as added by subsection (c) of this section) shall be published—

(1) in proposed form (with an opportunity for public comment of not less than 30 days), not later than April 30, 1993; and

(2) in final form, not later than July 31, 1993.

(e) **REPORT OF THE COMPTROLLER GENERAL.**—Not later than March 31, 1996, the Comptroller General of the United States shall submit a report to the Congress and the head of each agency

Printing.  
 15 USC 638  
 note.

15 USC 638  
 note.

that is required to make expenditures under the STTR program that—

(1) sets forth the Comptroller General's assessment, with respect to each such agency, of—

(A) the quality of research performed under funding agreements awarded by that agency under the STTR program since the beginning of the program;

(B) whether or not the STTR program has affected the performance of that agency's research programs; and

(C) the commercial potential of research conducted under the STTR program, if sufficient data is available;

(2) contains the Comptroller General's assessment as to the effects of the STTR program, if any, on the research quality and goals of the SBIR program; and

(3) determines the agencies and the federally-funded research and development centers' compliance with the procedures developed under section 9(g)(10) of the Small Business Act, as amended by this section.

### TITLE III—MISCELLANEOUS PROVISIONS

#### SEC. 301. DISCRETIONARY TECHNICAL ASSISTANCE TO SBIR AWARDEES.

(a) IN GENERAL.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended by adding at the end the following new subsection:

“(q) DISCRETIONARY TECHNICAL ASSISTANCE.—

“(1) IN GENERAL.—Each Federal agency required by this section to conduct an SBIR program may enter into an agreement with a vendor selected under paragraph (2) to provide small business concerns engaged in SBIR projects with technical assistance services, such as access to a network of scientists and engineers engaged in a wide range of technologies, or access to technical and business literature available through on-line data bases, for the purpose of assisting such concerns in—

“(A) making better technical decisions concerning such projects;

“(B) solving technical problems which arise during the conduct of such projects;

“(C) minimizing technical risks associated with such projects; and

“(D) developing and commercializing new commercial products and processes resulting from such projects.

“(2) VENDOR SELECTION.—Annually, each agency may select a vendor for purposes of this subsection using competitive, merit-based criteria, to assist small business concerns to meet the goals listed in paragraph (1).

“(3) ADDITIONAL TECHNICAL ASSISTANCE.—

“(A) FIRST PHASE.—Each agency referred to in paragraph (1) may provide services described in paragraph (1) to first phase SBIR award recipients in an amount equal to not more than \$4,000, which shall be in addition to the amount of the recipient's award.

“(B) SECOND PHASE.—Each agency referred to in paragraph (1) may authorize any second phase SBIR award recipient to purchase, with funds available from their SBIR awards, services described in paragraph (1), in an amount equal to not more than \$4,000 per year.

**SEC. 302. EXTENSION OF THE TECHNOLOGY TRANSFER DEMONSTRATION PROGRAM.**

Section 231 of the Small Business Administration Reauthorization and Amendments Act of 1990 (15 U.S.C. 648 note) is amended—

(1) in subsection (g), by striking “1993” and inserting “1995”; and

(2) in subsection (i), by striking “1991, 1992, and” and inserting “1994 and 1995”.

**SEC. 303. REPORTING REQUIREMENTS.**

(a) REPORT ON DEFICIENT SUBCONTRACTING PLANS.—Section 8(d) of the Small Business Act (15 U.S.C. 637(d)) is amended—

(1) by striking paragraph (11); and

(2) by redesignating paragraph (12) as paragraph (11).

(b) SMALL PURCHASES FROM FEDERAL PRISON INDUSTRIES.—Section 4124(c) of title 18, United States Code, is amended in the first sentence by striking “to the General Services Administration” and all that follows through “Procurement Policy Act” and inserting “acquisitions of products and services from Federal Prison Industries to the Federal Procurement Data System (as referred to in section 6(d)(4) of the Office of Federal Procurement Policy Act) in the same manner as it reports other acquisitions”.

**SEC. 304. SMALL BUSINESS INSTITUTES.**

Section 8(b)(1) of the Small Business Act (15 U.S.C. 637(b)(1)) is amended—

(1) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively; and

(2) by inserting after subparagraph (D) the following:

“(E) In carrying out its functions under subparagraph (A), to make grants (including contracts and cooperative agreements) to any public or private institution of higher education for the establishment and operation of a small business institute, which shall be used to provide business counseling and assistance to small business concerns through the activities of students enrolled at the institution, which students shall be entitled to receive educational credits for their activities.”.

**SEC. 305. ADDITIONAL SBIR AND STTR PROVISIONS.**

Section 9 of the Small Business Act (15 U.S.C. 638), is amended by adding at the end the following new subsection:

“(r) THIRD PHASE AGREEMENTS.—

“(1) IN GENERAL.—In the case of a small business concern that is awarded a funding agreement for the second phase of an SBIR or STTR program, a Federal agency may enter into a third phase agreement with that business concern for additional work to be performed during or after the second phase period. The second phase funding agreement with the small business concern may, at the discretion of the agency awarding the agreement, set out the procedures applicable to third phase agreements with that agency or any other agency.

“(2) DEFINITION.—In this subsection, the term ‘third phase agreement’ means a follow-on, non-SBIR or non-STTR funded contract as described in paragraph (4)(C) or paragraph (6)(C) of subsection (e).

“(3) INTELLECTUAL PROPERTY RIGHTS.—Each funding agreement under an SBIR or STTR program shall include provisions setting forth the respective rights of the United States and the small business concern with respect to intellectual property rights and with respect to any right to carry out follow-on research.”.

**SEC. 306. SENSE OF THE CONGRESS CONCERNING AMERICAN-MADE EQUIPMENT AND PRODUCTS.**

15 USC 638  
note.

(a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that an entity that is awarded a funding agreement under the SBIR program of a Federal agency under section 9 of the Small Business Act should, when purchasing any equipment or a product with funds provided through the funding agreement, purchase only American-made equipment and products, to the extent possible in keeping with the overall purposes of that program.

Decorations,  
medals,  
awards.  
Contracts.

(b) NOTICE TO SBIR AWARDEES.—Each Federal agency that awards funding agreements under the SBIR program shall provide to each recipient of such an award a notice describing the sense of the Congress, as set forth in subsection (a).

**SEC. 307. TECHNICAL CORRECTIONS.**

(a) SMALL BUSINESS PARTICIPATION RATES.—Section 714(b)(4) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note, 102 Stat. 3892) is amended by inserting “or other services in support of such contracts” after “(including surveying and mapping)”.

(b) MICROLOAN PROGRAM FUNDING.—Section 7(m)(7) of the Small Business Act (15 U.S.C. 636(m)(7)) is amended—

(1) in subparagraph (A), by adding at the end the following: “If, at the end of fiscal year 1992, the Administration has funded less than 50 microloan programs under this subparagraph, the Administration may, in fiscal year 1993, fund a number of additional microloan programs equal to the difference between 50 and the number of microloan programs actually funded in fiscal year 1992.”; and

(2) in subparagraph (B), by striking “In the second” and inserting “In addition to any microloan programs authorized to be funded in fiscal year 1993 in accordance with subparagraph (A), in the second”.

(c) **DEFINITION OF INTERMEDIARY.**—Section 7(m)(11)(A)(ii) of the Small Business Act (15 U.S.C. 636(m)(11)(A)(ii)) is amended by inserting “private,” before “nonprofit”.

(d) **SECONDARY LOAN MARKETS.**—Section 5(f)(4) of the Small Business Act (15 U.S.C. 634(f)(4)) is amended by striking “5(e), 7(a)(6), or 7(a)(8)” and inserting “7(a)(6)(C) or subsection (e) of this section”.

Approved October 28, 1992.

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**LEGISLATIVE HISTORY—S. 2941:**

**CONGRESSIONAL RECORD**, Vol. 138 (1992):

Oct. 3, considered and passed Senate.

Oct. 5, considered and passed House.

**WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS**, Vol. 28 (1992):

Oct. 28, Presidential statement.

Public Law 102-565  
102d Congress

An Act

To amend the Peace Corps Act to authorize appropriations for the Peace Corps for fiscal year 1993 and to establish a Peace Corps foreign exchange fluctuations account, and for other purposes.

Oct. 28, 1992  
[S. 3309]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. AUTHORIZATIONS OF APPROPRIATIONS.**

Section 3(b) of the Peace Corps Act (22 U.S.C. 2502(b)) is amended to read as follows:

“(b) AUTHORIZATIONS OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the purposes of this Act \$218,146,000 for fiscal year 1993, which are authorized to remain available until September 30, 1994.”.

**SEC. 2. PEACE CORPS FOREIGN CURRENCY FLUCTUATIONS.**

(a) ESTABLISHMENT OF FOREIGN CURRENCY FLUCTUATION ACCOUNT.—The Peace Corps Act (22 U.S.C. 2501 et seq.) is amended by inserting after section 15 the following new section:

**“SEC. 16. FOREIGN CURRENCY FLUCTUATIONS ACCOUNT.**

22 USC 2515.

“(a) ESTABLISHMENT.—(1) There is established in the Treasury of the United States an account to be known as the ‘Foreign Currency Fluctuations, Peace Corps, Account’. The account shall be used for the purpose of providing funds to pay expenses for operations of the Peace Corps outside the United States which, as a result of fluctuations in currency exchange rates, exceed the amount appropriated for such expenses.

“(2) Funds in the account may be transferred, upon the certification of the Director of the Peace Corps (or the Director’s designee) that the transfer is necessary for the purpose specified in paragraph (1), to the account containing funds appropriated for the expenses of the Peace Corps.

“(b) USE OF FUNDS IN THE ACCOUNT.—Funds transferred under subsection (a) shall be merged with, and be available for the same time period, as the appropriation to which they are applied. Notwithstanding any provision of law limiting the amount of funds the Peace Corps may obligate in any fiscal year, such amount shall be increased to the extent necessary to reflect fluctuations in exchange rates from those used in preparing the budget submission.

“(c) EXCHANGE RATES APPLICABLE TO OBLIGATIONS.—An obligation of the Peace Corps payable in the currency of a foreign country may be recorded as an obligation based upon exchange rates used in preparing a budget submission. A change reflecting fluctuations in exchange rates may be recorded as a disbursement is made.

“(d) TRANSFERS BACK TO ACCOUNT.—Funds transferred from the Foreign Currency Fluctuations, Peace Corps, Account may be transferred back to that account—

"(1) if the funds are not needed to pay obligations incurred because of fluctuations in currency exchange rates of foreign countries in the appropriation to which the funds were originally transferred; or

"(2) because of subsequent favorable fluctuations in the rates or because other funds are, or become, available to pay such obligations.

"(e) LIMITATION ON TRANSFERS BACK.—A transfer of funds back to the account under subsection (d) may not be made after the end of the fiscal year or other period for which the appropriation, to which the funds were originally transferred, is available for obligation.

"(f) TRANSFERS TO THE ACCOUNT FROM REGULAR APPROPRIATIONS.—(1) At the end of the fiscal year or other period for which appropriations for the expenses of the Peace Corps are made available, unobligated balances of such appropriation may be transferred into the Foreign Currency Fluctuations, Peace Corps, Account, to be merged with, and to be available for the same period and purposes as, that account.

"(2) The authority of this subsection shall be exercised only to the extent that specific amounts are provided in advance in an appropriation Act.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Foreign Currency Fluctuations, Peace Corps, Account for each fiscal year such sums as may be necessary to maintain a balance of \$5,000,000 in such account at the beginning of such fiscal year.

"(h) REPORTS.—Each year the Director of the Peace Corps shall submit to the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives, and to the Committee on Foreign Relations and the Committee on Appropriations of the Senate, a report on funds transferred under this section."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies with respect to each fiscal year after fiscal year 1992.

### SEC. 3. EVALUATION OF HEALTH-CARE SERVICES PROVIDED TO PEACE CORPS VOLUNTEERS.

(a) IN GENERAL.—The Director of the Peace Corps shall contract with an eligible organization or organizations to conduct before January 1, 1997, a total of three evaluations of the health-care needs of the Peace Corps volunteers and the adequacy of the system through which the Peace Corps provides health-care services in meeting those needs.

(b) REQUIREMENTS OF THE EVALUATIONS.—Each evaluation shall include an assessment of the adequacy of the Peace Corps health-care system—

(1) to provide diagnostic, treatment, and referral services to meet the health-care needs of Peace Corps volunteers, and

(2) to conduct health examinations of applicants for enrollment as Peace Corps volunteers and to provide immunization and dental care preparatory to service of applicants for enrollment who have accepted an invitation to begin a period of training for service as a Peace Corps volunteer.

(c) REPORTS TO THE PEACE CORPS.—An organization making an evaluation under this section shall submit to the Director of the Peace Corps a report containing its findings and rec-

22 USC 2515  
note.

22 USC 2504  
note.

Contracts.

ommendations not later than May 31, 1993, December 31, 1994, and December 31, 1996, as the case may be. Each report shall include recommendations regarding appropriate standards and procedures for ensuring the furnishing of quality medical care and for measuring the quality of care provided to Peace Corps volunteers.

(d) **REPORT TO CONGRESS.**—Not later than 90 days after receipt of a report required by subsection (c), the Director of the Peace Corps shall transmit the report, together with the Director's comments, to the appropriate congressional committees.

(e) **DEFINITIONS.**—For purposes of this section—

(1) the term "appropriate congressional committees" means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives; and

(2) the term "eligible organization" means an independent health-care accreditation organization or other independent organization with expertise in evaluating health-care systems similar to that of the Peace Corps.

#### **SEC. 4. REPORTING REQUIREMENT ON EMPLOYMENT-RELATED MATTERS.**

(a) **IN GENERAL.**—Not later than May 31, 1992, the Director of the Peace Corps and the Secretary of Labor shall jointly submit to the appropriate congressional committees a report which describes—

(1) the information provided by the Peace Corps to its volunteers and to applicants for volunteer service in the Peace Corps regarding the benefits and services to which Peace Corps volunteers or trainees may be entitled or for which they may be eligible in the event that they sustain injuries or become disabled during their service, or their training for service, with the Peace Corps;

(2) the efforts by the Peace Corps and the Department of Labor to coordinate the provision of such information to Peace Corps volunteer-applicants and volunteers and the processing of claims by Peace Corps volunteers under the Federal Employees Compensation Act (FECA);

(3) the number of Peace Corps volunteers and volunteer-applicants who have filed claims under the Federal Employees Compensation Act (FECA) and the percentage of the claims that have been approved; and

(4) the timeliness of approvals or denials of claims of Peace Corps volunteers and volunteer-applicants under the Federal Employees Compensation Act (FECA).

(b) **RECOMMENDATIONS.**—The report required by subsection (a) shall also include such recommendations as the Director of the Peace Corps and the Secretary of Labor may determine necessary to facilitate the filing and processing of claims by Peace Corps volunteers regarding the benefits described in that subsection.

(c) **DEFINITIONS.**—For purposes of this section—

(1) the term "appropriate congressional committees" means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives; and



(2) the term "Federal Employees Compensation Act (FECA)" means chapter 81 of title 5, United States Code.

**SEC. 5. PEACE CORPS PROGRAMS IN THE FORMER SOVIET UNION.**

(a) **AVAILABILITY OF FUNDS.**—Up to \$6,000,000 of the funds made available to carry out the Peace Corps Act for fiscal year 1993 shall be made available for establishing Small Business Development Programs in the independent states of the former Soviet Union. The programs shall include the promotion of local economic development by providing technical assistance and training in municipal restructuring and financing, privatization, valuation of state-owned enterprises, the development and promotion of business associations, and the identification of investment opportunities and requirements.

(b) **DEFINITION.**—For purposes of this section, the term "independent states of the former Soviet Union" means the following (which formerly were part of the Soviet Union): Armenia, Azerbaijan, Byelarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.

Approved October 28, 1992.

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**LEGISLATIVE HISTORY—S. 3309:**

CONGRESSIONAL RECORD, Vol. 138 (1992):  
Oct. 2, considered and passed Senate.  
Oct. 5, considered and passed House.

Public Law 102-566  
102d Congress

An Act

To amend the Agricultural Adjustment Act of 1938 to permit the acre-for-acre transfer of an acreage allotment or quota for certain commodities, and for other purposes.

Oct. 28, 1992  
[S. 3327]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. ACRE-FOR-ACRE TRANSFER OF CERTAIN ACREAGE ALLOTMENTS.**

Section 318 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d) is amended by striking subsection (e) and inserting the following new subsection:

“(e) The transfer of an allotment or quota under this section shall be approved acre for acre.”.

Approved October 28, 1992.

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**LEGISLATIVE HISTORY—S. 3327:**

CONGRESSIONAL RECORD, Vol. 138 (1992):

Oct. 5, considered and passed Senate and House.

Public Law 102-567  
102d Congress

An Act

Oct. 29, 1992  
[H.R. 2130]

To authorize appropriations for the National Oceanic and Atmospheric Administration, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

National  
Oceanic and  
Atmospheric  
Administration  
Authorization  
Act of 1992.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "National Oceanic and Atmospheric Administration Authorization Act of 1992".

**SEC. 2. DEFINITIONS.**

For the purposes of this Act, the term—

(1) "Act of 1890" means the Act entitled "An Act to increase the efficiency and reduce the expenses of the Signal Corps of the Army, and to transfer the Weather Bureau to the Department of Agriculture", approved October 1, 1890 (26 Stat. 653); and

(2) "Act of 1947" means the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947 (33 U.S.C. 883a et seq.).

**TITLE I—NOAA ATMOSPHERIC AND SATELLITE PROGRAMS**

**SEC. 101. NATIONAL WEATHER SERVICE OPERATIONS AND RESEARCH.**

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out the operations and research activities of the National Weather Service under law, \$311,532,000 for fiscal year 1992 and \$395,822,000 for fiscal year 1993. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to National Weather Service operations and research specified by the Act of 1890, the Act of 1947, and any other law involving such activities. Such activities include meteorological, hydrological, aviation, and oceanographic public warnings and forecasts, as well as applied research in support of such warnings and forecasts.

(b) PACIFIC WEATHER BUOYS.—Of the sums authorized under subsection (a), \$840,000 for fiscal year 1992 and \$1,135,000 for fiscal year 1993 are authorized to be appropriated for the purpose of operating and maintaining weather buoys off the coast of California, Oregon, Washington, and Hawaii.

(c) COOPERATIVE WEATHER OBSERVER PROGRAM.—The Secretary of Commerce may use funds otherwise available for conducting weather observations to strengthen the Cooperative Weather Observer Program and encourage public participation in the program. The Secretary may—

15 USC 325 note.

- (1) provide distinctive insignia or paraphernalia to Cooperative Weather Observers; and
- (2) make awards of nominal value to recognize continued participation in the program by observers or to recognize outstanding achievements by such observers or groups of observers without regard to any law restricting expenditures for such purposes to Federal employees.

#### SEC. 102. PUBLIC WARNING AND FORECAST SYSTEMS.

(a) **IN GENERAL.**—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to improve its public warning and forecast systems under law, \$132,034,000 for each of the fiscal years 1992 and 1993. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to public warning and forecast systems specified by the Act of 1890, the Act of 1947, and any other law involving such activities. Such activities include the development, acquisition, and implementation of major public warning and forecast systems.

(b) **WEATHER RADAR COMPLETE PROGRAM AUTHORIZATION.**—  
(1) Except as provided in paragraph (2), there are authorized to be appropriated to the Secretary of Commerce for all fiscal years beginning with fiscal year 1993, not to exceed \$426,971,000, to remain available until expended, to complete the acquisition and deployment of the Next Generation Weather Radar system, and to cover all associated activities (including program management and operations and maintenance through September 30, 1996).

(2) None of the funds are authorized to be appropriated for any fiscal year under paragraph (1), unless, within 60 days after the submission of the President's budget request for such fiscal year, the Secretary of Commerce—

(A) certifies to the Congress that—

(i) the radars, including system software, meet the technical performance specifications included in the radar procurement contract as in effect on October 1, 1992;

(ii) the system contract is viable, and the Secretary does not foresee circumstances which would prevent fulfillment of the contract;

(iii) the system can be fully sited, commissioned, and operational without requiring further authorization of appropriations beyond amounts authorized under paragraph (1); and

(iv) the Secretary does not foresee further delays in the system deployment and operation schedule; or

(B) submits to the Congress a report which describes— Reports.

(i) the circumstances which prevent a certification under subparagraph (A);

(ii) remedial actions undertaken or to be undertaken with respect to such circumstances;

(iii) the effects of such circumstances on the deployment and operation schedule and radar coverage; and

(iv) a justification for proceeding with the program, if appropriate.

#### SEC. 103. CLIMATE AND AIR QUALITY RESEARCH.

(a) **IN GENERAL.**—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out its climate and air quality

research activities under law, \$100,718,000 for fiscal year 1992 and \$103,877,000 for fiscal year 1993. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to climate and air quality research specified by the Act of 1890, the Act of 1947, and any other law involving such activities. Such activities include interannual and seasonal climate research, long-term climate and air quality research, and the National Climate Program.

(b) CLIMATE AND GLOBAL CHANGE.—Of the sums authorized under subsection (a), \$67,000,000 for each of the fiscal years 1992 and 1993 are authorized to be appropriated for the purpose of studying climate and global change. Such program shall augment and integrate existing programs of the National Oceanic and Atmospheric Administration and shall include global observations, monitoring, and data and information management relating to the study of changes in the Earth's climatic system, fundamental research on critical oceanic and atmospheric processes, and climate prediction and diagnostics.

#### SEC. 104. ATMOSPHERIC RESEARCH.

There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out its atmospheric research activities under law, \$43,935,000 for fiscal year 1992 and \$44,781,000 for fiscal year 1993. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to atmospheric research specified by the Act of 1890 and by any other law involving such activities. Such activities include research for developing improved observation and prediction capabilities for atmospheric processes, as well as solar-terrestrial services and research.

#### SEC. 105. SATELLITE OBSERVING SYSTEMS.

(a) IN GENERAL.—(1) There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out its satellite observing systems activities under law, \$305,744,000 for fiscal year 1992 and \$336,000,000 for fiscal year 1993. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to data and information services specified by the Act of 1890 and by any other law involving such activities. Such activities include spacecraft procurement, launch, and associated ground station modifications for polar orbiting and geostationary environmental satellite systems, as well as the operation of such satellites and land remote-sensing satellites.

(2) Of the sums authorized under paragraph (1), \$2,300,000 in fiscal year 1993 are authorized for the administration by the National Oceanic and Atmospheric Administration of the ground stations for the Search and Rescue Satellite Aided Tracking system. Such administration shall be carried out in consultation with the Department of Transportation and the Department of Defense.

(b) EMERGENCY CONTINGENCY FUND.—There are authorized to be appropriated to the Secretary of Commerce, \$110,000,000 for fiscal year 1992, to be deposited in an Emergency Weather Satellite Contingency Fund. Such Fund shall be available subject to the restrictions of appropriations Acts, without fiscal year limitation, to the Secretary only for the purpose of enabling the National Oceanic and Atmospheric Administration to maintain geostationary environmental satellite coverage for monitoring and prediction of

hurricanes and severe storms, including but not limited to the procurement of gap filler satellites, launch vehicles, and payments to foreign governments.

(c) **STRATEGIC PLAN.**—(1) The Secretary of Commerce and the Administrator of the National Aeronautics and Space Administration shall jointly develop and, not more than 120 days after the date of enactment of this Act, submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a strategic plan for development, procurement, and operation of the environmental satellite program of the Department of Commerce.

(2) The objectives of the strategic plan shall be—

(A) to ensure continuous and adequate operational environmental satellite coverage; and

(B) to require direct Federal fiscal and administrative accountability in all aspects of such environmental satellite program.

(3) The strategic plan shall—

(A) delineate the management duties and functions of each Federal department or agency involved in such satellite program;

(B) establish funding responsibilities for each Federal department or agency in a manner which reflects their respective management duties and functions;

(C) set forth procedures to be followed in the development, procurement, and operations of environmental satellites in such program;

(D) minimize the potential for developmental and procurement problems, and for cost overruns;

(E) provide for effective interagency and international coordination;

(F) provide for research and development activities to ensure that the procurement of operational environmental satellites relies on proven technologies, and to investigate potential improvements in data applications and operations for such satellites in order to improve the national weather warning and forecast system; and

(G) specify legislative and administrative actions necessary to implement the plan and to accomplish the objectives described in paragraph (2).

(d) **GEOSTATIONARY SATELLITE COMPLETE PROGRAM AUTHORIZATION.**—(1) Except as provided in paragraph (2), there are authorized to be appropriated to the Secretary of Commerce for all fiscal years beginning with fiscal year 1993, not to exceed \$1,005,255,000, to remain available until expended, to complete the procurement of Geostationary Operational Environmental Satellites I, J, K, L, and M, and the procurement of the launching and supporting ground systems of such satellites.

(2) None of the funds are authorized to be appropriated for any fiscal year under paragraph (1), unless, within 60 days after the submission of the President's budget request for such fiscal year, the Secretary of Commerce—

(A) certifies to the Congress that—

(i) the results of testing indicate that the satellite instruments are likely to meet the technical performance

specifications included in the satellite contract as in effect on October 1, 1992;

(ii) the procurements can be completed without requiring further authorization of appropriations beyond amounts authorized under paragraph (1); and

(iii) the Secretary foresees no gap in two-satellite service operations resulting from non-performance of the satellite contract; or

Reports.

(B) submits to the Congress a report which describes—

(i) the circumstances which prevent a certification under subparagraph (A);

(ii) remedial actions undertaken or to be undertaken with respect to such circumstances;

(iii) the effects of such circumstances on the launch schedule and satellite coverage; and

(iv) a justification for proceeding with the program, if appropriate.

#### SEC. 106. DATA AND INFORMATION SYSTEMS.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out its data and information services activities under law, \$32,628,000 for fiscal year 1992 and \$39,596,000 for fiscal year 1993. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to data and information services specified by the Act of 1890 and by any other law involving such activities. Such activities include climate data services, ocean data services, geophysical data services, and environmental assessment and information services.

(b) MODERNIZATION INITIATIVE.—Of the sums authorized under subsection (a), \$10,000,000 in fiscal year 1992 and \$15,000,000 in fiscal year 1993 are authorized to be appropriated for the purpose of modernizing the data and information systems of the National Oceanic and Atmospheric Administration to meet increasing requirements for managing, archiving, and distributing environmental data and information.

15 USC 1537.

(c) NEEDS ASSESSMENT FOR DATA MANAGEMENT, ARCHIVAL, AND DISTRIBUTION.—(1) Not later than 12 months after the date of enactment of this Act and at least biennially thereafter, the Secretary of Commerce shall complete an assessment of the adequacy of the environmental data and information systems of the National Oceanic and Atmospheric Administration. In conducting such an assessment, the Secretary shall take into consideration the need to—

(A) provide adequate capacity to manage, archive, and disseminate environmental data and information collected and processed, or expected to be collected and processed, by the National Oceanic and Atmospheric Administration and other appropriate departments and agencies;

(B) establish, develop, and maintain information bases, including necessary management systems, which will promote consistent, efficient, and compatible transfer and use of data;

(C) develop effective interfaces among the environmental data and information systems of the National Oceanic and Atmospheric Administration and other appropriate departments and agencies;

(D) develop and use nationally accepted formats and standards for data collected by various national and international sources; and

(E) integrate and interpret data from different sources to produce information that can be used by decisionmakers in developing policies that effectively respond to national and global environmental concerns.

(2) Not later than 12 months after the date of enactment of this Act and biennially thereafter, the Secretary of Commerce shall develop and submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a comprehensive plan, based on the assessment under paragraph (1), to modernize and improve the environmental data and information systems of the National Oceanic and Atmospheric Administration. The report shall—

Reports.

(A) set forth modernization and improvement objectives for the 10-year period beginning with the year in which the plan is submitted, including facility requirements and critical new technological components that would be necessary to meet the objectives set forth;

(B) propose specific agency programs and activities for implementing the plan;

(C) identify the data and information management, archival, and distribution responsibilities of the National Oceanic and Atmospheric Administration with respect to other Federal departments and agencies and international organizations, including the role of the National Oceanic and Atmospheric Administration with respect to large data systems like the Earth Observing System Data and Information System; and

(D) provide an implementation schedule and estimate funding levels necessary to achieve modernization and improvement objectives.

#### SEC. 107. HURRICANE RECONNAISSANCE PROGRAM.

15 USC 313 note.

(a) ESTABLISHMENT OF PROGRAM.—(1) The Secretary of Defense and the Secretary of Commerce shall establish a 5-year joint program for collecting operational and reconnaissance data, conducting research, and analyzing data on tropical cyclones to assist the forecast and warning program and increase the understanding of the causes and behavior of tropical cyclones.

(2) The Secretary of Commerce shall establish the Tropical Cyclone Research Advisory Committee, an advisory committee of tropical cyclone research scientists, to make recommendations for tropical cyclone research activities and reconnaissance procedures.

(b) RESPONSIBILITIES.—(1) The Secretary of Defense shall have the responsibility for maintaining, flying, and funding tropical cyclone reconnaissance aircraft to accomplish the program established under this section and to transfer the data to the Secretary of Commerce. Program responsibility may not be transferred to any other Federal department or agency, including the Coast Guard, without the agreement and approval of the Secretary of Defense, the Secretary of Commerce, and the head of any other Federal agency or department to which the responsibility is transferred.

(2) The Secretary of Commerce shall have the responsibility to provide funding for data gathering and research by remote sens-



ing, ground sensing, research aircraft, and other technologies necessary to accomplish the program established under this section.

(c) **MANAGEMENT PLANS.**—(1) The Secretary of Defense and the Secretary of Commerce shall jointly develop and, within 120 days after the date of enactment of this Act, submit to the Congress a management plan for the program established under this section, which shall include organizational structure, goals, major tasks, and funding profiles for the 5-year duration of the program.

(2) The Secretary of Defense and the Secretary of Commerce, in consultation with the Tropical Cyclone Research Advisory Committee established by section 107(a)(2), shall jointly develop and, within 4 years after the date of enactment of this Act, submit to the Congress a management plan providing for continued tropical cyclone surveillance and reconnaissance which will adequately protect the citizens of the coastal areas of the United States.

(3) The management plans and programs required by this section shall in every sense provide for at least the same degree and quality of protection (such as early warning capability and accuracy of fixing a storm's location) as currently exists with a combination of satellite technology and manned reconnaissance flights. Additionally, such plans and programs shall in no way allow any reduction in the level, quality, timeliness, sustainability, or area served (including the State of Hawaii) of both the existing principal and back-up tropical cyclone reconnaissance and tracking systems.

15 USC 313 note.

#### **SEC. 108. UNITED STATES WEATHER RESEARCH PROGRAM.**

(a) **ESTABLISHMENT.**—The Secretary of Commerce, in cooperation with the Federal Coordinating Council for Science, Engineering, and Technology through the Committee on Earth and Environmental Sciences, shall establish a United States Weather Research Program to—

(1) increase benefits to the Nation from the substantial investment in modernizing the public weather warning and forecast system in the United States;

(2) improve local and regional weather forecasts and warnings;

(3) address critical weather-related scientific issues; and

(4) coordinate governmental, university, and private-sector efforts.

(b) **IMPLEMENTATION PLAN.**—Not later than 90 days after the date of enactment of this Act, the Secretary of Commerce, in cooperation with the Committee on Earth and Environmental Sciences, shall prepare and submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a plan for implementation of the United States Weather Research Program which shall—

(1) establish, for the 10-year period beginning in the year the plan is submitted, the goals and priorities for Federal weather research which most effectively advance the scientific understanding of weather processes and provide information to improve weather warning and forecast systems in the United States;

(2) describe specific activities, including research activities, data collection and data analysis requirements, predictive modeling, participation in international research efforts, demonstra-

tion of potential operational forecast applications, and education and training required to achieve such goals and priorities; and

(3) set forth the role of each Federal agency and department to be involved in the United States Weather Research Program, identifying and addressing, as appropriate, relevant programs and activities of the Federal agencies and departments that would contribute to such Program.

#### **SEC. 109. WEATHER SERVICE OFFICE IN RENO, NEVADA.**

(a) **FACILITY ACQUISITION.**—The Administrator of the National Oceanic and Atmospheric Administration is authorized—

(1) to construct, on approximately 10 acres of land to be leased from the University of Nevada System, Desert Research Institute, or

(2) in the alternative, to acquire by lease construction on such land, with a lease term of up to 30 years, a Weather Forecast Office, upper air facility, regional climate center, and associated instruments and site improvements as part of the implementation of the Next Generation Weather Radar and National Weather Service Modernization Program for the Reno, Nevada area. This authorization is subject to the availability of appropriations provided in advance for the purpose stated in paragraph (1) or (2).

(b) **REIMBURSEMENT AUTHORITY.**—The Administrator is authorized to reimburse the Desert Research Institute for the cost of providing utilities and access to the site.

(c) **OPERATIONS.**—The Administrator is authorized to carry out the operations of the National Oceanic and Atmospheric Administration in such facility.

#### **SEC. 110. WEATHER SERVICE FACILITIES IN SOUTH FLORIDA.**

(a) **CONSTRUCTION OF FACILITY.**—The Administrator of the National Oceanic and Atmospheric Administration is authorized to construct, on land to be leased from Florida International University at the University's Tamiami campus, a facility for the National Hurricane Center, a Weather Forecast Office, an upper air facility, and associated site improvements as part of the implementation of the Next Generation Weather Radar and National Weather Service Modernization Program for the South Florida area. This authorization is subject to the availability of appropriations provided in advance for the purpose stated in this subsection.

(b) **OPERATIONS.**—The Administrator is authorized to carry out the operations of the National Oceanic and Atmospheric Administration in such facility.

#### **SEC. 111. WEATHER FORECAST OFFICE, HONOLULU.**

(a) **FACILITY ACQUISITION.**—(1) The Administrator of the National Oceanic and Atmospheric Administration is authorized to lease building and associated space from the University of Hawaii, Honolulu, for the operation of a Weather Forecast Office, as part of the implementation of the Next Generation Weather Radar and National Weather Service Modernization Program for the State of Hawaii, for a term of up to 20 years. This authorization is subject to the availability of appropriations provided in advance for the purpose stated in this paragraph.

(2) Rental costs for the space leased under paragraph (1) shall not exceed fair annual rental value as established by governmental appraisal.

(b) ALTERATIONS.—The Administrator is authorized to expend funds to make all necessary alterations to the space to allow for operation of a Weather Forecast Office.

(c) OPERATIONS.—The Administrator is authorized to carry out the operations of the National Oceanic and Atmospheric Administration in such facility.

Establishment.  
15 USC 313b.

#### SEC. 112. INSTITUTE FOR AVIATION WEATHER PREDICTION.

The Administrator of the National Oceanic and Atmospheric Administration shall establish an Institute for Aviation Weather Prediction. The Institute shall provide forecasts, weather warnings, and other weather services to the United States aviation community. The Institute shall expand upon the activities of the aviation unit currently at the National Severe Storms Forecast Center in Kansas City, Missouri, and shall be established in the Kansas City, Missouri area. The Administrator shall provide a full and fair opportunity for employees at the National Severe Storms Forecast Center to assume comparable duties and responsibilities within the Institute.

#### SEC. 113. WEATHER SERVICE OFFICE IN OKLAHOMA.

(a) FACILITY ACQUISITION.—(1) The Administrator of the National Oceanic and Atmospheric Administration is authorized to lease building and associated space to be constructed by the University of Oklahoma, Norman, for the operation of the National Severe Storms Laboratory, Weather Forecast Office, NEXRAD Operational Support Facility, and National Institute for Storm Prediction as part of the implementation of the Next Generation Weather Radar and National Weather Service Modernization Program, for a term of up to 20 years. This authorization is subject to the availability of appropriations provided in advance for the purpose stated in this paragraph.

(2) Rental costs for the space leased under paragraph (1) shall not exceed fair annual rental value as established by governmental appraisal.

(b) ALTERATIONS.—The Administrator is authorized to expend funds to make all necessary alterations to the space to allow for operations listed in subsection (a)(1).

(c) OPERATIONS.—The Administrator is authorized to carry out the operations of the National Oceanic and Atmospheric Administration in such facility.

#### SEC. 114. TRANSFER OF DATA ARCHIVING RESPONSIBILITY.

(a) FINDINGS.—The Congress finds that—

(1) section 602 of the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4272) directs the Secretary of Commerce to provide for the archiving of land remote-sensing data for historical, scientific, and technical purposes, including long-term global environmental monitoring;

(2) the Secretary of Commerce currently provides for the archiving of Landsat data at the Department of the Interior's EROS Data Center, which is consistent with the requirement of section 602(g) of such Act (15 U.S.C. 4272(g)) to use existing Federal Government facilities to the extent practicable in carrying out this archiving responsibility;

(3) the Landsat data collected since 1972 are an important global data set for monitoring and assessing land resources and global change;

(4) the Secretary of the Interior maintains archives of aerial photography, digital cartographic data, and other Earth science data at the EROS Data Center that also are important data sets for monitoring and assessing land resources and global change;

(5) it is appropriate to transfer authority to the Secretary of the Interior for the archiving of land remote-sensing data; and

(6) the Secretary of the Interior should explore ways to facilitate the use of archived data for research purposes consistent with other provisions of the Land Remote-Sensing Commercialization Act of 1984.

(b) **PROVISION OF UNENHANCED DATA.**—Section 402(b)(4) of the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4242(b)(4)) is amended by inserting “of the Interior” immediately after “Secretary”.

(c) **ARCHIVING OF DATA.**—Section 602 of the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4272) is amended—

(1) in subsections (b), (c), (d), (f), and (g), by inserting “of the Interior” immediately after “Secretary” each place it appears; and

(2) by adding at the end the following new subsection:

“(h) in carrying out the functions of this section, the Secretary of the Interior shall consult with the Secretary to ensure that archiving activities are consistent with the terms and conditions of any contract or agreement entered into under title II, III, or V of this Act and with any license issued under title IV of this Act.”

#### **SEC. 115. WEATHER OFFICE IN EUREKA, CALIFORNIA.**

Real property.

Notwithstanding any other law, any property and improvements to that property located on Woodley Island in the city of Eureka, California, that are—

(1) acquired by the Secretary of Commerce from Humboldt Bay Harbor Recreation and Conservation District, California, for use as a weather forecasting office; and

(2) determined by the Secretary to be excess property, shall revert to that district.

#### **SEC. 116. REPORT ON SATELLITE OCEANOGRAPHY.**

33 USC 883j  
note.

(a) **IN GENERAL.**—The Federal Coordinating Council for Science, Engineering, and Technology through the Committee on Earth and Environmental Sciences, in consultation with Federal, academic, and commercial users of remotely sensed data, shall consider and develop findings and recommendations regarding—

(1) the most urgent current needs of oceanographic researchers within the Federal Government, the academic community, and the private sector, for remote sensing capabilities and remotely sensed data, including findings regarding the present inadequacies in these capabilities and data; and

(2) the major goals of satellite oceanography for the next 10 years.

(b) **REPORT.**—Not later than one year after the date of enactment of this Act, the Federal Coordinating Council for Science,

Engineering, and Technology shall submit to the Congress a report which describes the findings and recommendations of the Committee on Earth and Environmental Sciences, including recommendations for, or a description of actions to be taken toward—

- (1) correcting the inadequacies in remote sensing capabilities;
- (2) improving the availability of remotely sensed data; and
- (3) achieving the major goals of satellite oceanography developed pursuant to subsection (a)(2).

## TITLE II—NOAA OCEAN AND COASTAL PROGRAMS

### SEC. 201. NATIONAL OCEAN SERVICE.

(a) MAPPING, CHARTING, AND GEODESY.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out mapping, charting, and geodesy activities (including geodetic data collection and analysis) under the Act of 1947 and any other law involving those activities, \$50,917,000 for fiscal year 1992 and \$51,087,000 for fiscal year 1993.

(b) OBSERVATION AND ASSESSMENT.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out observation and assessment activities—

(1) under the Act of 1947 and any other law involving those activities, \$57,273,000 for fiscal year 1992 and \$57,273,000 for fiscal year 1993; and

(2) under title II of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1441 et seq.), \$11,000,000 for fiscal year 1992 and \$11,000,000 for fiscal year 1993.

(c) COASTAL OCEAN PROGRAM.—Of the sums authorized under subsection (b)(1), \$17,352,000 for each of the fiscal years 1992 and 1993 are authorized to be appropriated for the purposes of conducting a Coastal Ocean Program. Such program shall augment and integrate existing programs of the National Oceanic and Atmospheric Administration and shall include efforts to improve predictions of fish stocks, to better conserve and manage living marine resources, to improve predictions of coastal ocean pollution to help correct and prevent degradation of the ocean environment, to promote development of ocean technology to support the effort of science to understand and characterize the role oceans play in global climate and environmental analysis, and to improve predictions of coastal hazards to protect human life and personal property.

(d) LONG ISLAND SOUND CIRCULATION MODEL.—No moneys appropriated pursuant to the authorizations in this Act shall be used to conduct analyses of samples collected under the National Status and Trends Program until the Policy Committee of the Long Island Sound Study certifies that the National Oceanic and Atmospheric Administration has completed the water circulation model for Long Island Sound.

(e) CIRCULATION MODEL FUNDING.—Of the sums authorized under subsection (b) for fiscal year 1992, \$600,000 is available for completion of the water circulation model for Long Island Sound and \$400,000 is available for National Status and Trends Program stations in Long Island Sound.

(f) **OCEAN MANAGEMENT.**—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out ocean management activities, \$1,678,000 for fiscal year 1992 and \$1,823,000 for fiscal year 1993.

**SEC. 202. OCEAN AND GREAT LAKES RESEARCH.**

(a) **OCEAN AND GREAT LAKES RESEARCH AUTHORIZATION.**—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out ocean and Great Lakes research activities under the Act of 1947, the Act of 1890, and any other law involving those activities, \$32,171,000 for fiscal year 1992 and \$39,800,000 for fiscal year 1993.

(b) **COOPERATIVE INSTITUTE FOR LIMNOLOGY AND ECOSYSTEMS RESEARCH.**—In addition to amounts authorized under subsection (a), there are authorized to be appropriated to the Office of Oceanic and Atmospheric Research of the National Oceanic and Atmospheric Administration \$250,000 for fiscal year 1992 and \$260,000 for fiscal year 1993, for use by the Cooperative Institute for Limnology and Ecosystems Research (established in partnership with the State of Michigan and the Great Lakes Environmental Research Laboratory) for—

(1) research conducted by the Institute;

(2) development of the Institute; and

(3) for preparation of a five-year plan for research and development.

(c) **LARGE LAKES RESEARCH.**—(1) In addition to amounts authorized under subsections (a) and (b), there are authorized to be appropriated to the Secretary of Commerce for use by the Office of Oceanic and Atmospheric Research \$2,000,000 for fiscal year 1992 and \$2,080,000 for fiscal year 1993 for use for preparing a plan for large lakes research.

(2) Amounts appropriated under this subsection may be used for—

(A) preparation of a 5-year plan designating large lake study sites, research activities, and anticipated research products; and

(B) collection of physical, chemical, and biological data required for preparing that plan.

(3) Activities conducted with amounts appropriated under this subsection shall be coordinated through the Great Lakes Environmental Research Laboratory, working in association with the Cooperative Institute for Limnology and Ecosystems Research and the National Undersea Research Program.

**SEC. 203. AQUATIC NUISANCE PREVENTION AND CONTROL PROGRAM.**

(a) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary of Commerce \$11,000,000 for fiscal year 1992 and \$11,440,000 for fiscal year 1993 for use in implementing the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (Public Law 101-646).

(b) **REPORT.**—Not later than one year after the date of the enactment of this Act, the Secretary of Commerce shall submit a report to the Congress on progress toward establishing a nonindigenous aquatic nuisance prevention and control program within the National Oceanic and Atmospheric Administration and

16 USC 4701  
note.

projected funding for such a program for the following five fiscal years.

**SEC. 204. REPEAL OF NATIONAL OCEAN POLLUTION PLANNING ACT OF 1978.**

The National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1701-1709) is repealed.

33 USC 2706  
note.

**SEC. 205. NOAA OIL AND HAZARDOUS SUBSTANCE SPILL COST REIMBURSEMENT.**

(a) **TREATMENT OF AMOUNTS RECEIVED AS REIMBURSEMENT OF EXPENSES.**—Notwithstanding any other provision of law, amounts received by the United States as reimbursement of expenses related to oil or hazardous substance spill response activities, or natural resource damage assessment, restoration, rehabilitation, replacement, or acquisition activities, conducted (or to be conducted) by the National Oceanic and Atmospheric Administration—

(1) shall be deposited into the Fund;

(2) shall be available, without fiscal year limitation and without apportionment, for use in accordance with the law under which the activities are conducted; and

(3) shall not be considered to be an augmentation of appropriations.

(b) **APPLICATION.**—Subsection (a) shall apply to amounts described in subsection (a) that are received—

(1) after the date of the enactment of this Act; or

(2) with respect to the oil spill associated with the grounding of the EXXON VALDEZ.

(c) **DEFINITIONS.**—For purposes of this section—

(1) the term “Fund” means the Damage Assessment and Restoration Revolving Fund of the National Oceanic and Atmospheric Administration referred to in title I of Public Law 101-515 under the heading “National Oceanic and Atmospheric Administration” (104 Stat. 2105); and

(2) the term “expenses” includes incremental and base salaries, ships, aircraft, and associated indirect costs, except the term does not include base salaries and benefits of National Oceanic and Atmospheric Administration Support Coordinators.

**TITLE III—NOAA MARINE FISHERY PROGRAMS**

**SEC 301. AUTHORIZATION OF APPROPRIATIONS.**

The National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act (Public Law 98-210; 97 Stat. 1409) is amended—

(1) in section 2(a) by striking “\$26,500,000” and all that follows through “fiscal year 1989” and inserting in lieu thereof “\$47,933,000 for fiscal year 1992 and \$59,162,000 for fiscal year 1993”;

(2) in section 3(a) by striking “\$35,000,000” the first time it appears and all that follows through “fiscal year 1989” and inserting in lieu thereof “\$27,290,000 for fiscal year 1992 and \$35,594,000 for fiscal year 1993”; and

(3) in section 4(a) by striking “\$10,000,000” and all that follows through “fiscal year 1989” and inserting in lieu thereof “\$12,182,000 for fiscal year 1992 and \$18,838,000 for fiscal year 1993”.

97 Stat. 1410.

**SEC. 302. DEVELOPMENT OF DOLPHIN-SAFE METHODS OF TUNA FISHING.**

Section 2 of the National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act (Public Law 98-210; 97 Stat. 1409) is amended by adding at the end the following new subsection:

“(d) Of the sums authorized under subsection (a) of this section, \$1,000,000 for each of the fiscal years 1992 and 1993 are authorized to be appropriated for the purpose of developing dolphin-safe methods of locating and catching yellowfin tuna. Such authorization shall be in addition to moneys authorized under section 7 of the Act entitled ‘An Act to improve the operation of the Marine Mammal Protection Act of 1972, and for other purposes’, approved October 9, 1981 (16 U.S.C. 1384). Within six months after the date of enactment of this subsection, the Secretary, in cooperation with the Inter-American Tropical Tuna Commission and after consultation with interested persons, shall publish a program plan for public comment that shall provide for—

“(1) cooperative research to improve understanding of the behavioral association of dolphins and yellowfin tuna in the eastern tropical Pacific Ocean;

“(2) development, testing, and implementation of new methods of locating and catching yellowfin tuna without the incidental taking of dolphins; and

“(3) appropriate measures to ensure program participation and sharing of associated costs by each foreign government that conducts, or authorizes its nationals to conduct, yellowfin tuna fishing in the eastern tropical Pacific Ocean.”

Printing.  
Public  
information.

**SEC. 303. FISHERIES RESEARCH.**

Section 304(e) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854(e)) is amended by redesignating paragraphs (1), (2), and (3), and any reference thereto, as paragraphs (2), (3), and (4), respectively, and by inserting immediately after “FISHERIES RESEARCH.—” the following: “(1) The Secretary shall initiate and maintain, in cooperation with the Councils, a comprehensive program of fishery research to carry out and further the purposes, policy, and provisions of this Act. Such program shall be designed to acquire knowledge and information, including statistics, on fishery conservation and management and on the economics of the fisheries.”

**SEC 304. FISHERY FACILITIES.**

Section 1101(k) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271(k)), is amended—

(1) by striking “or” at the end of paragraph (1);

(2) by adding “or” at the end of paragraph (2); and

(3) by inserting immediately after paragraph (2) the following new paragraph:

“(3) for aquaculture, including operations on land or elsewhere—

“(A) any structure or appurtenance thereto designed for aquaculture;

“(B) the land necessary for any such structure or appurtenance described in subparagraph (A);

“(C) equipment which is for use in connection with any such structure or appurtenance and which is necessary



for the performance of any function referred to in subparagraph (A); and

“(D) any vessel built in the United States used for, equipped to be used for, or of a type which is normally used for aquaculture;”.

**SEC. 305. STUDY OF JOINT ENFORCEMENT OF FISHERIES REGULATIONS.**

Reports.

Not later than 4 months after the date of enactment of this Act, the Secretary of Transportation and the Secretary of Commerce shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a joint report describing methods by which Coast Guard enforcement efforts in the western Pacific Ocean under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) may be enhanced and coordinated with those of the National Oceanic and Atmospheric Administration. The report shall—

(1) evaluate the ability of the Coast Guard to address key enforcement problems, which the Secretary of Commerce shall identify, for the western Pacific Ocean, particularly in the exclusive economic zone adjacent to the Hawaiian Islands, the Northern Mariana Islands, and the territories and possessions of the United States;

(2) propose procedures by which the Coast Guard and the National Oceanic and Atmospheric Administration may coordinate their efforts to improve and maximize effective enforcement of fisheries regulations, including but not limited to the chartering of light aircraft for fisheries surveillance and enforcement; and

(3) recommend appropriate levels of Coast Guard participation in such efforts.

Mexico.  
16 USC 1361  
note.

**SEC. 306. STUDY ON EFFECTS OF DOLPHIN FEEDING.**

(a) **STUDY.**—The Secretary of Commerce shall conduct a study in the eastern Gulf of Mexico on the effects of feeding of noncaptive dolphins by human beings. The study conducted pursuant to this section shall be designed to detect any behavior or diet modification resulting from this feeding and to identify the effects, if any, of these modifications on the health and well-being of the dolphins.

(b) **EXTERNAL REVIEW.**—In design and conduct of the study required under subsection (a), the Secretary shall consult with the National Academy of Sciences and the Marine Mammal Commission.

(c) **REPORT.**—Within 18 months after the date of the enactment of this Act, the Secretary shall submit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study conducted pursuant to subsection (a).

Establishment.  
15 USC 1511d.

**SEC. 307. CHESAPEAKE BAY ESTUARINE RESOURCES OFFICE.**

(a) **ESTABLISHMENT.**—(1) The Secretary of Commerce shall establish, within the National Oceanic and Atmospheric Administration, an office to be known as the Chesapeake Bay Estuarine Resources Office (hereinafter referred to as the “Office”).

(2) The Office shall be headed by a Director who shall be appointed by the Secretary of Commerce, in consultation with the

Chesapeake Bay Executive Council. Any individual appointed as Director shall have knowledge and experience in research or resource management efforts in the Chesapeake Bay.

(3) The Director may appoint such additional personnel for the Office as the Director determines necessary to carry out this section.

(b) FUNCTIONS.—The Office, in consultation with the Chesapeake Bay Executive Council, shall—

(1) provide technical assistance to the Administrator, to other Federal departments and agencies, and to State and local government agencies in—

(A) assessing the processes that shape the Chesapeake Bay system and affect its living resources;

(B) identifying technical and management alternatives for the restoration and protection of living resources and the habitats they depend upon; and

(C) monitoring the implementation and effectiveness of management plans;

(2) develop and implement a strategy for the National Oceanic and Atmospheric Administration that integrates the science, research, monitoring, data collection, regulatory, and management responsibilities of the Secretary of Commerce in such a manner as to assist the cooperative, intergovernmental Chesapeake Bay Program to meet the commitments of the Chesapeake Bay Agreement;

(3) coordinate the programs and activities of the various organizations within the National Oceanic and Atmospheric Administration and the Chesapeake Bay Regional Sea Grant Programs (including programs and activities in coastal and estuarine research, monitoring, and assessment; fisheries research and stock assessments; data management; remote sensing; coastal management; and habitat conservation);

(4) coordinate the activities of the National Oceanic and Atmospheric Administration with the activities of the Environmental Protection Agency and other Federal, State, and local agencies;

(5) establish an effective mechanism which shall ensure that projects have undergone appropriate peer review and provide other appropriate means to determine that projects have acceptable scientific and technical merit for the purpose of achieving maximum utilization of available funds and resources to benefit the Chesapeake Bay area;

(6) remain cognizant of ongoing research, monitoring, and management projects and assist in the dissemination of the results and findings of those projects; and

(7) submit a biennial report to the Congress and the Secretary of Commerce with respect to the activities of the Office and on the progress made in protecting and restoring the living resources and habitat of the Chesapeake Bay.

Reports.

(c) BUDGET LINE ITEM.—The Secretary of Commerce shall identify, in the President's annual budget to the Congress, the funding request for the Office.

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 2 of the National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act (Public Law 98-210; 97 Stat. 1409), as amended by section 302 of this Act, is further amended by adding at the end the following new subsection:

“(e) Of the sums authorized under subsection (a) of this section, no more than \$2,500,000 are authorized to be appropriated for each of the fiscal years 1992 and 1993 to enable the National Oceanic and Atmospheric Administration to establish the Chesapeake Bay Estuarine Resources Office under section 306 of the National Oceanic and Atmospheric Administration Authorization Act of 1991. No more than 20 percent of the amount appropriated under the authorization in this subsection shall be used for administrative purposes.”

(e) **CHESAPEAKE EXECUTIVE COUNCIL.**—For purposes of this section, “Chesapeake Executive Council” means the representatives from the Commonwealth of Virginia, the State of Maryland, the Commonwealth of Pennsylvania, the Environmental Protection Agency, the District of Columbia, and the Chesapeake Bay Commission, who are signatories to the Chesapeake Bay Agreement, and any future signatories to that Agreement.

33 USC 1251  
note.

#### **SEC. 308. NATIONAL SHELLFISH INDICATOR PROGRAM.**

(a) **ESTABLISHMENT OF A RESEARCH PROGRAM.**—The Secretary of Commerce, in cooperation with the Secretary of Health and Human Services and the Administrator of the Environmental Protection Agency, shall establish and administer a 5-year national shellfish research program (hereafter in this section referred to as the “Program”) for the purpose of improving existing classification systems for shellfish growing waters using the latest technological advancements in microbiology and epidemiological methods. Within 12 months after the date of enactment of this Act, the Secretary of Commerce, in cooperation with the advisory committee established under subsection (b) and the Consortium, shall develop a comprehensive 5-year plan for the Program which shall at a minimum provide for—

(1) an environmental assessment of commercial shellfish growing areas in the United States, including an evaluation of the relationships between indicators of fecal contamination and human enteric pathogens;

(2) the evaluation of such relationships with respect to potential health hazards associated with human consumption of shellfish;

(3) a comparison of the current microbiological methods used for evaluating indicator bacteria and human enteric pathogens in shellfish and shellfish growing waters with new technological methods designed for this purpose;

(4) the evaluation of current and projected systems for human sewage treatment in eliminating viruses and other human enteric pathogens which accumulate in shellfish;

(5) the design of epidemiological studies to relate microbiological data, sanitary survey data, and human shellfish consumption data to actual hazards to health associated with such consumption; and

(6) recommendations for revising Federal shellfish standards and improving the capabilities of Federal and State agencies to effectively manage shellfish and ensure the safety of shellfish intended for human consumption.

Establishment.

(b) **ADVISORY COMMITTEE.**—(1) For the purpose of providing oversight of the Program on a continuing basis, an advisory committee (hereafter in this section referred to as the “Committee”) shall be established under a memorandum of understanding between

the Interstate Shellfish Sanitation Conference and the National Marine Fisheries Service.

(2) The Committee shall—

(A) identify priorities for achieving the purpose of the Program;

(B) review and recommend approval or disapproval of Program work plans and plans of operation;

(C) review and comment on all subcontracts and grants to be awarded under the Program;

(D) receive and review progress reports from the Consortium and program subcontractors and grantees; and

(E) provide such other advice on the Program as is appropriate.

(3) The Committee shall consist of at least ten members and shall include—

(A) three members representing agencies having authority under State law to regulate the shellfish industry, of whom one shall represent each of the Atlantic, Pacific, and Gulf of Mexico shellfish growing regions;

(B) three members representing persons engaged in the shellfish industry in the Atlantic, Pacific, and Gulf of Mexico shellfish growing regions (who shall be appointed from among at least six recommendations by the industry members of the Interstate Shellfish Sanitation Conference Executive Board), of whom one shall represent the shellfish industry in each region;

(C) three members, of whom one shall represent each of the following Federal agencies: the National Oceanic and Atmospheric Administration, the Environmental Protection Agency, and the Food and Drug Administration; and

(D) one member representing the Shellfish Institute of North America.

(4) The Chairman of the Committee shall be selected from among the Committee members described in paragraph (3)(A).

(5) The Committee shall establish and maintain a subcommittee of scientific experts to provide advice, assistance, and information relevant to research funded under the Program, except that no individual who is awarded, or whose application is being considered for, a grant or subcontract under the Program may serve on such subcommittee. The membership of the subcommittee shall, to the extent practicable, be regionally balanced with experts who have scientific knowledge concerning each of the Atlantic, Pacific, and Gulf of Mexico shellfish growing regions. Scientists from the National Academy of Sciences and appropriate Federal agencies (including the National Oceanic and Atmospheric Administration, Food and Drug Administration, Centers for Disease Control, National Institutes of Health, Environmental Protection Agency, and National Science Foundation) shall be considered for membership on the subcommittee.

Establishment.

(6) Members of the Committee and its scientific subcommittee established under this subsection shall not be paid for serving on the Committee or subcommittee, but shall receive travel expenses as authorized by section 5703 of title 5, United States Code.

(c) CONTRACT WITH CONSORTIUM.—Within 30 days after the date of enactment of this Act, the Secretary of Commerce shall seek to enter into a cooperative agreement or contract with the Consortium under which the Consortium will—

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(1) be the academic administrative organization and fiscal agent for the Program;

(2) award and administer such grants and subcontracts as are approved by the Committee under subsection (b);

(3) develop and implement a scientific peer review process for evaluating grant and subcontractor applications prior to review by the Committee;

(4) in cooperation with the Secretary of Commerce and the Committee, procure the services of a scientific project director;

(5) develop and submit budgets, progress reports, work plans, and plans of operation for the Program to the Secretary of Commerce and the Committee; and

(6) make available to the Committee such staff, information, and assistance as the Committee may reasonably require to carry out its activities.

(d) **REPORTING REQUIREMENTS.**—Within 3 months after the date of enactment of this Act and within each of the next three consecutive 3-month intervals, the Secretary of Commerce shall provide Congress with written assessments of Federal efforts to implement this section. In addition, the Secretary of Commerce shall submit an annual report to Congress on the Program, including a description of the research funded under the Program and the results of such research.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—(1) Of the sums authorized under section 4(a) of the National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act (Public Law 98-210; 97 Stat. 1409), there are authorized to be appropriated to the Secretary of Commerce \$5,200,000 for each of the fiscal years 1993 through 1997 for carrying out the Program. Of the amounts appropriated pursuant to this authorization, not more than 5 percent of such appropriation may be used for administrative purposes by the National Oceanic and Atmospheric Administration. The remaining 95 percent of such appropriation shall be used to meet the administrative and scientific objectives of the Program.

(2) The Interstate Shellfish Sanitation Conference shall not administer appropriations authorized under this section, but may be reimbursed from such appropriations for its expenses in arranging for travel, meetings, workshops, or conferences necessary to carry out the Program.

(f) **DEFINITIONS.**—As used in this section, the term—

(1) “Consortium” means the Louisiana Universities Marine Consortium; and

(2) “shellfish” means any species of oyster, clam, or mussel that is harvested for human consumption.

#### **SEC. 309. COOPERATIVE INSTITUTE OF FISHERIES OCEANOGRAPHY.**

North Carolina.

The Secretary of Commerce shall acquire on a long-term basis from the Administrator of General Services space on Pivers Island in Beaufort, North Carolina, that is needed to implement the memorandum of understanding of March 2, 1989, between the National Oceanic and Atmospheric Administration, Duke University, and the University of North Carolina establishing the Cooperative Institute of Fisheries Oceanography. This section shall not apply if the annual cost of leasing the required space exceeds \$2,000,000.

**SEC. 310. UNITED STATES GULF OF MEXICO AND SOUTH ATLANTIC SHRIMP FISHERY STUDY.**

(a) **STUDY.**—(1) The Secretary of Commerce shall conduct a comprehensive economic study to provide baseline information to guide policy decisions on the future of the United States Gulf of Mexico and South Atlantic shrimp fishery. Funds shall only be expended under the terms of paragraph (2) of this section.

(2) The study shall—

(A) gather information as to the extent to which governmental and economic factors have affected or may affect the United States Gulf of Mexico and South Atlantic shrimp fishery;

(B) attempt to expand available historical data through survey contacts and cooperation with the industry; and

(C) incorporate the results of the studies on the United States Gulf of Mexico and South Atlantic shrimp fishery that are underway or completed on the date this section is effective.

(b) **REPORT.**—The Secretary of Commerce shall submit a report to Congress detailing the results of this study no later than October 1, 1993.

(c) **AUTHORIZATION.**—There is authorized to be appropriated to carry out the provisions of this section \$1,000,000 for fiscal year 1993. None of the funds authorized under section 304(g) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854(g)) may be used to carry out the provisions of this section.

**SEC. 311. REPORT ON SATELLITE CAPABILITIES FOR FISHERIES ENFORCEMENT.**

(a) **IN GENERAL.**—Not later than six months after the date of the enactment of this Act, the Secretary of Commerce, in consultation with the heads of other Federal agencies, shall prepare and submit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, a report describing how current and planned satellite capabilities of the Federal Government can aid in the enforcement of Federal fisheries laws and international fisheries conservation programs.

(b) **REPORT CONTENTS.**—The report under subsection (a) shall include consideration of—

(1) active, transponder-based systems and passive, vessel signature-based technologies capable of localizing or identifying individual vessels without the use of vessel-carried transmitters;

(2) the resolution, coverage periods, and all-weather effectiveness of each technology and the real-time data delivery capacity of the various systems;

(3) a description of the technological requirements (including data processing and transfer procedures) and institutional requirements necessary to transfer satellite data to end users for management and enforcement purposes; and

(4) the status of foreign civil satellites and the feasibility of their application to international vessel location and monitoring.

California.

**SEC. 312. DEMONSTRATION PROJECT FOR SEAFOOD HANDLING TRAINING AND EDUCATION.**

(a) **GRANTS.**—The Secretary of Commerce may make annual grants to the City of San Francisco and the Port of San Francisco for each of the fiscal years 1992 and 1993 for a joint project at the San Francisco Wharf to demonstrate safe seafood handling and to conduct seafood education programs.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—For grants under this section, there are authorized to be appropriated to the Secretary of Commerce—

(1) \$250,000 for fiscal year 1992; and

(2) \$350,000 for fiscal year 1993.

Such funds shall remain available until expended.

**SEC. 313. BOWHEAD WHALE STUDY.**

Notwithstanding any other provision of law, the Department of Commerce and the Department of the Interior are authorized to pay as appropriate, \$48,464, plus interest since June 6, 1988, to reimburse any unpaid costs incurred in the research and preparation of a paper entitled "Quantification of Subsistence and Cultural Need for Bowhead Whales by Alaska Eskimos", which was presented by the United States to the 40th Annual Meeting of the International Whaling Commission.

Louisiana.

**SEC. 314. FISHERIES RESEARCH CENTER.**

The Secretary of Commerce, through the Under Secretary of Commerce for Oceans and Atmosphere, is authorized to construct a building, on approximately 15 acres of land to be leased from the University of Southwest Louisiana for a 99-year term. This section shall not apply if the annual cost of leasing the required land exceeds one dollar. This authorization is subject to the availability of appropriations provided in advance for the purpose stated in this section.

Mississippi.

**SEC. 315. PASCAGOULA LABORATORY WAREHOUSE FACILITIES.**

Due to the logistical crisis at the National Marine Fisheries Service Laboratory at Pascagoula, Mississippi, the Administrator of the National Oceanic and Atmospheric Administration should give immediate consideration to upgrading dock and warehouse support facilities at such Laboratory in fiscal year 1993.

**TITLE IV—ADMINISTRATION AND OTHER ACCOUNTS****SEC. 401. PROGRAM SUPPORT.**

(a) **EXECUTIVE DIRECTION AND ADMINISTRATIVE ACTIVITIES.**—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out executive direction and administrative activities (including management, administrative support, provision of retired pay of National Oceanic and Atmospheric Administration commissioned officers, and policy development) under the Act entitled "An Act to clarify the status and benefits of commissioned officers of the National Oceanic and Atmospheric Administration, and for other purposes", approved December 31, 1970 (33 U.S.C. 857-1 et seq.), and any other law involving those activities, \$68,460,000 for fiscal year 1992 and \$75,750,000 for fiscal year 1993.

(b) **MARINE SERVICES.**—(1) There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oce-

anic and Atmospheric Administration to carry out marine services activities (including ship operations, maintenance, and support) under the Act of 1947 and any other law involving those activities, \$63,407,000 for fiscal year 1992 and \$68,518,000 for fiscal year 1993.

(2) There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to acquire a multibeam sonar mapper, \$1,500,000 for fiscal year 1993.

(3) In addition to sums authorized in paragraphs (1) and (2), there are authorized to be appropriated to the Secretary of Commerce \$1,040,000 for fiscal year 1993 for the reactivation and operation of the research vessel ALBATROSS IV.

(4)(A) Unless necessary for safety reasons, the Secretary of Commerce shall not deactivate the ALBATROSS IV (if active), until an equivalent replacement vessel is operational.

33 USC 891b  
note.

(B) The Secretary of Commerce shall notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives 60 days prior to the proposed deactivation of any other research vessel of the National Oceanic and Atmospheric Administration, if an equivalent replacement vessel will not become operational at the time of deactivation.

(5) The Secretary of Commerce shall consult with the Oceanographer of the Navy regarding appropriate cost effective and practical measures to allow vessels of the National Oceanic and Atmospheric Administration to be interoperable with vessels of the Department of the Navy, including with respect to operation, maintenance, and repair of those vessels.

33 USC 891g  
note.

(c) AIRCRAFT SERVICES.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out aircraft services activities (including aircraft operations, maintenance, and support) under the Act of 1890 and any other law involving those activities, \$8,865,000 for fiscal year 1992 and \$10,336,000 for fiscal year 1993.

#### SEC. 402. CONSTRUCTION.

There are authorized to be appropriated to the Secretary of Commerce, for acquisition, construction, maintenance, and operation of facilities of the National Oceanic and Atmospheric Administration under any law involving those activities, \$34,917,000 for fiscal year 1992 and \$94,500,000 for fiscal year 1993.

#### SEC. 403. NOTICE OF REPROGRAMMING.

15 USC 1538.

(a) IN GENERAL.—The Secretary of Commerce shall provide notice to the Committee on Commerce, Science, and Transportation and Committee on Appropriations of the Senate and to the Committee on Merchant Marine and Fisheries, Committee on Science, Space, and Technology, and Committee on Appropriations of the House of Representatives, not less than 15 days before reprogramming funds available for a program, project, or activity of the National Oceanic and Atmospheric Administration in an amount greater than the lesser of \$250,000 or 5 percent of the total funding of such program, project, or activity if the reprogramming—

(1) augments an existing program, project, or activity;



(2) reduces by 5 percent or more (A) the funding for an existing program, project, or activity or (B) the numbers of personnel therefor as approved by Congress; or

(3) results from any general savings from a reduction in personnel which would result in a change in an existing program, project, or activity.

(b) NOTICE OF REORGANIZATION.—The Secretary of Commerce shall provide notice to the Committees on Merchant Marine and Fisheries, Science, Space, and Technology, and Appropriations of the House of Representatives, and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate not later than 15 days before any major reorganization of any program, project, or activity of the National Oceanic and Atmospheric Administration.

15 USC 1539.  
Regulations.

#### SEC. 404. FINANCIAL ASSISTANCE.

(a) PROCESSING OF APPLICATIONS.—Within 12 months after the date of enactment of this Act, the Secretary of Commerce shall develop and, after notice and opportunity for public comment, promulgate regulations or guidelines to ensure that a completed application for a grant, contract, or other financial assistance under a nondiscretionary assistance program shall be processed and approved or disapproved within 75 days after submission of the application to the responsible program office of the National Oceanic and Atmospheric Administration.

(b) NOTIFICATION OF APPLICANT.—Not later than 14 days after the date on which the Secretary of Commerce receives an application for a contract, grant, or other financial assistance provided under a nondiscretionary assistance program administered by the National Oceanic and Atmospheric Administration, the Secretary shall indicate in writing to the applicant whether or not the application is complete and, if not complete, shall specify the additional material that the applicant must provide to complete the application.

(c) EXEMPTION.—In the case of a program for which the recipient of a grant, contract, or other financial assistance is specified by statute to be, or has customarily been, a State or an interstate fishery commission, such financial assistance may be provided by the Secretary to that recipient on a sole-source basis, notwithstanding any other provision of law.

(d) DEFINITION.—In this section, the term “nondiscretionary assistance program” means any program for providing financial assistance—

(1) under which the amount of funding for, and the intended recipient of, the financial assistance is specified by Congress; or

(2) the recipients of which have customarily been a State or an interstate fishery commission.

44 USC 1307  
note.

#### SEC. 405. PRICE FREEZE ON CHARTS AND OTHER PRODUCTS OF NOAA.

Notwithstanding section 1307 of title 44, United States Code, the price of nautical charts or other nautical products produced or published by the National Oceanic and Atmospheric Administration and sold after the date of the enactment of this Act shall not exceed the price of that type of chart or product on the date of enactment of this Act adjusted for inflation. This section shall not apply after September 30, 1994.

**SEC. 406. COOPERATIVE AGREEMENTS.**

15 USC 1540.

The Secretary of Commerce, acting through the Under Secretary of Commerce for Oceans and Atmosphere, may enter into cooperative agreements and other financial agreements with any nonprofit organization to—

- (1) aid and promote scientific and educational activities to foster public understanding of the National Oceanic and Atmospheric Administration or its programs; and
- (2) solicit private donations for the support of such activities.

**SEC. 407. RECRUITMENT OF MINORITIES AND WOMEN FOR NOAA SCIENCE EDUCATION ACTIVITIES.**

(a) FINDINGS.—The Congress finds the following:

(1) In this decade, more than two-thirds of the new entrants to the United States labor force will be minorities and women—groups which for the most part have been historically underrepresented in the sciences.

(2) The National Science Foundation estimates that by the year 2000, the United States will face a shortfall of more than 400,000 science and engineering personnel.

(3) Given the demographics of the United States workforce, the problem of underrepresented minorities and women in the sciences and engineering could seriously compromise the industrial and technological capability of the United States, as well as its ability to compete in international marketplaces.

(4) The National Oceanic and Atmospheric Administration has made important efforts to promote education programs in the sciences for students, teachers, and other citizens.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the National Oceanic and Atmospheric Administration should continue to expand its educational programs in the sciences, and in this effort, that the National Oceanic and Atmospheric Administration should develop and promote programs that reach out to and recruit minorities and women for education in the sciences.

**TITLE V—NATIONAL MARINE MONITORING PROGRAM****SEC. 501. AMENDMENT.**

The Marine Protection, Research, and Sanctuaries Act of 1972 is amended by adding at the end the following new title:

**“TITLE V—NATIONAL COASTAL MONITORING ACT****“SEC. 501. PURPOSES.**

33 USC 2801.

“The purposes of this title are to—

“(1) establish a comprehensive national program for consistent monitoring of the Nation’s coastal ecosystems;

“(2) establish long-term water quality assessment and monitoring programs for high priority coastal waters that will enhance the ability of Federal, State, and local authorities to develop and implement effective remedial programs for those waters;

“(3) establish a system for reviewing and evaluating the scientific, analytical, and technological means that are available for monitoring the environmental quality of coastal ecosystems;

Reports.

"(4) establish methods for identifying uniform indicators of coastal ecosystem quality;

"(5) provide for periodic, comprehensive reports to Congress concerning the quality of the Nation's coastal ecosystems;

"(6) establish a coastal environment information program to distribute coastal monitoring information;

"(7) provide state programs authorized under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.) with information necessary to design land use plans and coastal zone regulations that will contribute to the protection of coastal ecosystems; and

"(8) provide certain water pollution control programs authorized under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) with information necessary to design and implement effective coastal water pollution controls.

33 USC 2802.

**"SEC. 502. DEFINITIONS.**

"For the purposes of this title, the term—

"(1) 'Administrator' means the Administrator of the Environmental Protection Agency;

"(2) 'coastal ecosystem' means a system of interacting biological, chemical, and physical components throughout the water column, water surface, and benthic environment of coastal waters;

"(3) 'coastal water quality' means the physical, chemical and biological parameters that relate to the health and integrity of coastal ecosystems;

"(4) 'coastal water quality monitoring' means a continuing program of measurement, analysis, and synthesis to identify and quantify coastal water quality conditions and trends to provide a technical basis for decisionmaking;

"(5) 'coastal waters' means waters of the Great Lakes, including their connecting waters and those portions of rivers, streams, and other bodies of water having unimpaired connection with the open sea up to the head of tidal influence, including wetlands, intertidal areas, bays, harbors, and lagoons, including waters of the territorial sea of the United States and the contiguous zone"; and

"(6) 'Under Secretary' means Under Secretary of Commerce for Oceans and Atmosphere.

33 USC 2803.

**"SEC. 503. COMPREHENSIVE COASTAL WATER QUALITY MONITORING PROGRAM.**

"(a) **AUTHORITY; JOINT IMPLEMENTATION.**—(1) The Administrator and the Under Secretary, in conjunction with other Federal, State, and local authorities, shall jointly develop and implement a program for the long-term collection, assimilation, and analysis of scientific data designed to measure the environmental quality of the Nation's coastal ecosystems pursuant to this section. Monitoring conducted pursuant to this section shall be coordinated with relevant monitoring programs conducted by the Administrator, Under Secretary, and other Federal, State, and local authorities.

Rhode Island.

"(2) Primary leadership for the monitoring program activities conducted by the Environmental Protection Agency pursuant to this section shall be located at the Environmental Research Laboratory in Narragansett, Rhode Island.

"(b) **PROGRAM ELEMENTS.**—The Comprehensive Coastal Water Quality Monitoring Program shall include, but not be limited to—

"(1) identification and analysis of the status of environmental quality in the Nation's coastal ecosystems, including but not limited to, assessment of—

"(A) ambient water quality, including contaminant levels in relation to criteria and standards issued pursuant to title III or the Federal Water Pollution Control Act (33 U.S.C. 1311 et seq.);

"(B) benthic environmental quality, including analysis of contaminant levels in sediments in relation to criteria and standards issued pursuant to title III of the Federal Water Pollution Control Act (33 U.S.C. 1311 et seq.); and

"(C) health and quality of living resources.

"(2) identification of sources of environmental degradation affecting the Nation's coastal ecosystems;

"(3) assessment of the impact of governmental programs and management strategies and measures designed to abate or prevent the environmental degradation of the Nation's coastal ecosystems;

"(4) assessment of the accumulation of floatables along coastal shorelines;

"(5) analysis of expected short-term and long-term trends in the environmental quality of the Nation's coastal ecosystems; and

"(6) the development and implementation of intensive coastal water quality monitoring programs in accordance with subsection (d).

(c) MONITORING GUIDELINES AND PROTOCOLS.—

"(1) GUIDELINES.—Not later than 18 months after the date of the enactment of this title, the Administrator and the Under Secretary shall jointly issue coastal water quality monitoring guidelines to assist in the development and implementation of coastal water quality monitoring programs. The guidelines shall—

"(A) provide an appropriate degree of uniformity among the coastal water quality monitoring methods and data while preserving the flexibility of monitoring programs to address specific needs;

"(B) establish scientifically valid monitoring methods that will—

"(i) provide simplified methods to survey and assess the water quality and ecological health of coastal waters;

"(ii) identify and quantify through more intensive efforts the severity of existing or anticipated problems in selected coastal waters;

"(iii) identify and quantify sources of pollution that cause or contribute to those problems, including point and nonpoint sources; and

"(iv) evaluate over time the effectiveness of efforts to reduce or eliminate pollution from those sources;

"(C) provide for data compatibility to enable data to be efficiently stored and shared by various users; and

"(D) identify appropriate physical, chemical, and biological indicators of the health and quality of coastal ecosystems.

"(2) TECHNICAL PROTOCOLS.—Guidelines issued under paragraph (1) shall include protocols for—

"(A) designing statistically valid coastal water quality monitoring networks and monitoring surveys, including assessment of the accumulation of floatables.

"(B) sampling and analysis, including appropriate physical and chemical parameters, living resource parameters, and sediment analysis techniques; and

"(C) quality control, quality assessment, and data consistency and management.

"(3) PERIODIC REVIEW.—The Administrator and the Under Secretary shall periodically review the guidelines and protocols issued under this subsection to evaluate their effectiveness, the degree to which they continue to answer program objectives and provide an appropriate degree of uniformity while taking local conditions into account, and any need to modify or supplement them with new guidelines and protocols, as needed.

"(4) DISCHARGE PERMIT DATA.—The Administrator or a State permitting authority shall ensure that compliance monitoring conducted pursuant to section 402(a)(2) of the Federal Water Pollution Control Act (33 U.S.C. 1342(a)(2)) for permits for discharges to coastal waters is consistent with the guidelines issued under this subsection. Any modifications of discharge permits necessary to implement this subsection shall be deemed to be minor modifications of such permit. Nothing in this subsection requires dischargers to conduct monitoring other than compliance monitoring pursuant to permits under section 402(a)(2) of the Federal Water Pollution Control Act (33 U.S.C. 1342(a)(2)).

"(d) INTENSIVE COASTAL WATER QUALITY MONITORING PROGRAMS.—

"(1) IN GENERAL.—The Comprehensive Coastal Water Quality Monitoring Program established pursuant to this section shall include intensive coastal water quality monitoring programs developed under this subsection.

"(2) DESIGNATION OF INTENSIVE MONITORING AREAS.—Not later than 24 months after the date of enactment of this title and periodically thereafter, the Administrator and the Under Secretary shall, based on recommendations by the National Research Council, jointly designate coastal areas to be intensively monitored.

"(3) IDENTIFICATION OF SUITABLE COASTAL AREAS.—(A) The Administrator and the Under Secretary shall contract with the National Research Council to conduct a study to identify coastal areas suitable for the establishment of intensive coastal monitoring programs. In identifying these coastal areas, the National Research Council shall consider areas that—

"(i) are representatives of coastal ecosystems throughout the United States;

"(ii) will provide information to assess the status and trends of coastal water quality nation-wide; and

"(iii) would benefit from intensive water quality monitoring because of local management needs.

"(B) In making recommendations under this paragraph, the National Research Council shall consult with Regional Research Boards established pursuant to title IV of this Act.

"(C) The National Research Council shall, within 18 months of the date of enactment of this title, submit a report to the

Administrator and the Under Secretary listing areas suitable for intensive monitoring.

"(D) The Administrator and the Under Secretary, in conjunction with other Federal, State, and local authorities, shall develop and implement multi-year programs of intensive monitoring for Massachusetts and Cape Cod Bays, the Gulf of Maine, the Chesapeake Bay, the Hudson-Raritan Estuary, and each area jointly designated by the Administrator and the Under Secretary pursuant to paragraph (2).

Massachusetts.  
Maine.

"(4) INTENSIVE COASTAL WATER QUALITY MONITORING PROGRAMS.—Each intensive coastal water quality monitoring program developed pursuant to this subsection shall—

"(A) identify water quality conditions and problems and provide information to assist in improving coastal water quality;

"(B) clearly state the goals and objectives of the monitoring program and their relationship to the water quality objectives for coastal waters covered by the program;

"(C) identify the water quality and biological parameters of the monitoring program and their relationship to these goals and objectives;

"(D) describe the types of monitoring networks, surveys and other activities to be used to achieve these goals and objectives, using where appropriate the guidelines issued under subsection (c);

"(E) survey existing Federal, State, and local coastal monitoring activities and private compliance monitoring activities in or on the coastal waters covered by the program, describe the relationship of the program to those other monitoring activities, and integrate them, as appropriate, into the intensive monitoring program;

"(F) describe the data management and quality control components of the program;

"(G) specify the implementation requirements for the program, including—

"(i) the lead Federal, State, or regional authority that will administer the program;

"(ii) the public and private parties that will implement the program;

"(iii) a detailed schedule for program implementation;

"(iv) all Federal and State responsibilities for implementing the program; and

"(v) the changes in Federal, State, and local monitoring programs necessary to implement the program;

"(H) estimate the costs to Federal and State governments, and other participants, of implementing the monitoring program; and

"(I) describe the methods to assess periodically the success of the monitoring program in meeting its goals and objectives, and the manner in which the program may be modified from time-to-time.

"(5) CRITERIA FOR MONITORING MASSACHUSETTS AND CAPE COD BAYS.—In addition to the criteria listed in paragraph (4), the intensive monitoring program for Massachusetts and Cape Cod Bays shall establish baseline data on environmental phenomena (such as quantity of bacteria and quality of indige-

nous species, and swimmability) and determine the ecological impacts resulting from major point source discharges.

"(6) MEMORANDUM OF UNDERSTANDING.—Prior to implementing any intensive coastal water quality monitoring program under this subsection, the Administrator and the Under Secretary shall enter into a Memorandum of Understanding to implement the intensive coastal water quality monitoring programs and may extend the memorandum of Understanding to include other appropriate Federal agencies. The Memorandum of Understanding shall identify the monitoring and reporting responsibilities of each agency and shall encourage the coordination of monitoring activities.

"(7) IMPLEMENTATION.—(A) The Administrator, the Under Secretary, and the Governor of each State having waters subject to an intensive coastal water quality monitoring program developed pursuant to this subsection shall ensure compliance with that program.

"(B) The Administrator and the Under Secretary are authorized to enter into cooperative agreements to provide financial assistance to non-Federal agencies and institutions to support implementation of intensive monitoring programs under this subsection. Federal financial assistance may only be provided on the condition that not less than fifty percent of the costs of the monitoring to be conducted by a non-Federal agency or institution is provided from non-Federal funds.

"(e) COMPREHENSIVE IMPLEMENTATION STRATEGY.—

"(1) IN GENERAL.—Within 1 year after the date of enactment of this title, the Administrator and the Under Secretary shall jointly submit to Congress a Comprehensive Implementation Strategy identifying the current and planned activities to implement the Comprehensive Coastal Monitoring Program pursuant to this section.

"(2) CONSULTATION.—The Administrator and the Under Secretary shall consult with the National Academy of Sciences, the Director of the United States Fish and Wildlife Service, the Director of the Minerals Management Service, the Commandant of the Coast Guard, the Secretary of the Navy, the Secretary of Agriculture, the heads of any other relevant Federal or regional agencies, and the Governors of coastal States in developing the Strategy.

"(3) PUBLIC COMMENT.—Not less than 3 months before submitting the Strategy to Congress, the Administrator and the Under Secretary shall jointly publish a draft version of the Strategy in the Federal Register and shall solicit public comments regarding the Strategy.

"(4) MEMORANDUM OF UNDERSTANDING.—Within 1 year after submission of the Strategy under paragraph (1), the Administrator and the Under Secretary shall enter into a Memorandum of Understanding with appropriate Federal agencies necessary to effect the coordination of Federal coastal monitoring programs. The Memorandum of Understanding shall identify the monitoring and reporting responsibilities of each agency and shall encourage the coordination of monitoring activities where possible.

Federal  
Register,  
publication.

**SEC. 504. REPORT TO CONGRESS.**

33 USC 2804.

"On September 30 of each other year beginning in 1993, the Administrator and the Under Secretary shall jointly submit to the Committee on Commerce, Science, and Transportation and the Committee on Environment and Public Works of the Senate and the Committee on Merchant Marine and Fisheries and the Committee on Public Works and Transportation of the House of Representatives a report describing the condition of the Nation's coastal ecosystems, including the following:

"(1) an assessment of the status and health of the Nation's coastal ecosystems;

"(2) an evaluation of environmental trends in coastal ecosystems;

"(3) identification of sources of environmental degradation affecting coastal ecosystems;

"(4) an assessment of the extent to which floatables degrade coastal ecosystems, including trends in the accumulation of floatables and the threat posed by floatables to aquatic life;

"(5) an assessment of the impact of government programs designed to abate the degradation of coastal ecosystems;

"(6) an evaluation of the adequacy of monitoring programs and identification of any additional program elements which may be needed; and

"(7) a summary of monitoring results in areas monitored under subsection 503(d).

**"SEC. 505. AUTHORIZATION OF APPROPRIATIONS.**

33 USC 2805.

"(a) NOAA AUTHORIZATION.—For development and implementation of programs under this title, including financial assistance to non-Federal agencies and institutions to support implementation of intensive monitoring programs under section 503(d), there is authorized to be appropriated to the Under Secretary amounts not to exceed \$5,000,000 for fiscal year 1993, \$8,000,000 for fiscal year 1994, \$10,000,000 for fiscal year 1995, and \$12,000,000 for fiscal year 1996.

"(b) EPA AUTHORIZATION.—For development and implementation of programs under this title, including financial assistance to non-Federal agencies and institutions to support implementation of intensive monitoring programs under section 503(d), there is authorized to be appropriated to the Administrator amounts not to exceed \$5,000,000 for fiscal year 1993, \$8,000,000 for fiscal year 1994, and \$10,000,000 for fiscal year 1995, and \$12,000,000 for fiscal year 1996."

**TITLE VI—NOAA FLEET MODERNIZATION****SEC. 601. SHORT TITLE.**

This title may be cited as the "NOAA Fleet Modernization Act".

NOAA Fleet  
Modernization  
Act.  
33 USC 851  
Note.

**SEC. 602. DEFINITIONS.**

33 USC 891.

In this title, the term—

(1) "NOAA" means the National Oceanic and Atmospheric Administration within the Department of Commerce.

(2) "NOAA fleet" means the fleet of research vessels owned or operated by NOAA.



(3) "Plan" means the NOAA Fleet Replacement and Modernization Plan described in section 604.

(4) "Secretary" means the Secretary of Commerce.

(5) "UNOLS" means University-National Oceanographic Laboratory System.

33 USC 891a.

**SEC. 603. FLEET REPLACEMENT AND MODERNIZATION PROGRAM.**

The Secretary is authorized to implement, subject to the requirements of this Act, a 15-year program to replace and modernize the NOAA fleet.

33 USC 891b.

**SEC. 604. FLEET REPLACEMENT AND MODERNIZATION PLAN.**

(a) **IN GENERAL.**—To carry out the program authorized in section 603, the Secretary shall develop and submit to Congress a replacement and modernization Plan for the NOAA fleet covering the years authorized under section 610.

(b) **TIMING.**—The Plan required in subsection (a) shall be submitted to Congress within 30 days of the date of enactment of this Act, and updated on an annual basis.

(c) **PLAN ELEMENTS.**—The Plan required in subsection (a) shall include the following—

(1) the number of vessels proposed to be modernized or replaced, the schedule for their modernization or replacement, and anticipated funding requirements;

(2) the number of vessels proposed to be constructed, leased, or chartered;

(3) the number of vessels, or days at sea, that can be obtained by using the vessels of the UNOLS;

(4) the number of vessels that will be made available to NOAA by the Secretary of the Navy, or any other federal official, and the terms and conditions for their availability;

(5) the proposed acquisition of modern scientific instrumentation for the NOAA fleet, including acoustic systems, data transmission positioning and communication systems, physical, chemical, and meteorological oceanographic systems, and data acquisition and processing systems; and

(6) the appropriate role of the NOAA Corps in operating and maintaining the NOAA fleet.

(d) **CONTRACTING LIMITATION.**—The Secretary may not enter into any contract for the construction, lease, or service life extension of a vessel of the NOAA fleet before the date of the submission to Congress of the Plan required in subsection (a).

33 USC 891c.

**SEC. 605. DESIGN OF NOAA VESSELS.**

(a) **DESIGN REQUIREMENT.**—Except for the vessel designs identified under subsection (b), the Secretary, working through the Office of the NOAA Corps Operations and the Systems Procurement Office, shall—

(1) prepare requirements for each class of vessel to be constructed or converted under the Plan; and

(2) contract competitively from nongovernmental entities with expertise in shipbuilding for vessel design and construction based on the requirements for each class of vessel to be acquired.

Reports.

(b) **EXCEPTION.**—The Secretary shall—

(1) report to Congress identifying any existing vessel design or design proposal that meets the requirements of the Plan within 30 days after the date of enactment of this Act and

shall promptly advise the Congress of any modification of these designs; and

(2) submit to Congress as part of the annual update of the Plan required in section 604, any subsequent existing vessel design or design proposals that meet the requirements of the Plan.

**SEC. 606. CONTRACT AUTHORITY.**

33 USC 891d.

**(a) MULTIYEAR CONTRACTS.—**

(1) **IN GENERAL.**—Subject to paragraphs (2) and (3), and notwithstanding section 1341 of title 31, United States Code and section 3732 of the Revised Statutes of the United States (41 U.S.C. 11), the Secretary may acquire vessels for the NOAA fleet by purchase, lease, lease-purchase, or otherwise, under one or more multiyear contracts.

(2) **REQUIRED FINDINGS.**—The Secretary may not enter into a contract pursuant to this subsection unless the Secretary finds with respect to that contract that—

(A) there is a reasonable expectation that throughout the contemplated contract period the Secretary will request from Congress funding for the contract at the level required to avoid contract termination; and

(B) the use of the contract will promote the best interests of the United States by encouraging competition and promoting economic efficiency in the operation of the NOAA fleet.

(3) **REQUIRED CONTRACT PROVISIONS.**—The Secretary may not enter into a contract pursuant to this subsection unless the contract includes—

(A) a provision under which the obligation of the United States to make payments under the contract for any fiscal year is subject to the availability of appropriations provided in advance for those payments;

(B) a provision that specifies the term of effectiveness of the contract; and

(C) appropriate provisions under which, in case of any termination of the contract before the end of the term specified pursuant to subparagraph (B), the United States shall only be liable for the lesser of—

(i) an amount specified in the contract for such a termination; or

(ii) amounts that—

(I) were appropriated before the date of the termination for the performance of the contract or for procurement of the type of acquisition covered by the contract; and

(II) are unobligated on the date of the termination.

**(b) SERVICE CONTRACTS.**—Notwithstanding any other provision of law, the Secretary may enter into multiyear contracts for oceanographic research, fisheries research, and mapping and charting services to assist the Secretary in fulfilling NOAA missions. The Secretary may only enter into these contracts if—

(1) the Secretary finds that it is in the public interest to do so;

(2) the contract is for not more than 7 years; and

(3)(A) the cost of the contract is less than the cost (including the cost of operation, maintenance, and personnel) to the NOAA of obtaining those services on NOAA vessels; or

(B) NOAA vessels are not available or cannot provide those services.

(c) **BONDING AUTHORITY.**—Notwithstanding any other law, the Secretary may not require a contractor for the construction, alteration, repair or maintenance of a NOAA vessel to provide a bid bond, payment bond, performance bond, completion bond, or other surety instrument in an amount greater than 20 percent of the value of the base contract quantity (excluding options) unless the Secretary determines that requiring an instrument in that amount will not prevent a responsible bidder or offeror from competing for the award of the contract.

33 USC 891e.

**SEC. 607. RESTRICTION WITH RESPECT TO CERTAIN SHIPYARD SUBSIDIES.**

(a) **IN GENERAL.**—The Secretary of Commerce may not award a contract for the construction, repair (except emergency repairs), or alteration of any vessel of the National Oceanic and Atmospheric Administration in a shipyard, if that vessel benefits or would benefit from significant subsidies for the construction, repair, or alteration of vessels in that shipyard.

(b) **DEFINITION.**—In this section, the term “significant subsidy” includes, but is not limited to, any of the following:

(1) Officially supported export credits.

(2) Direct official operating support to the commercial shipbuilding and repair industry, or to a related entity that favors the operation of shipbuilding and repair, including but not limited to—

(A) grants;

(B) loans and loan guarantees other than those available on the commercial market;

(C) forgiveness of debt;

(D) equity infusions on terms inconsistent with commercially reasonable investment practices; and

(E) preferential provision of goods and services.

(3) Direct official support for investment in the commercial shipbuilding and repair industry, or to a related entity that favors the operation of shipbuilding and repair, including but not limited to the kinds of support listed in paragraph (2)(A) through (E), and any restructuring support, except public support for social purposes directly and effectively linked to shipyard closures.

(4) Assistance in the form of grants, preferential loans, preferential tax treatment, or otherwise, that benefits or is directly related to shipbuilding and repair for purposes of research and development that is not equally open to domestic and foreign enterprises.

(5) Tax policies and practices that favor the shipbuilding and repair industry, directly or indirectly, such as tax credits, deductions, exemptions, and preferences, including accelerated depreciation, if such benefits are not generally available to persons or firms not engaged in shipbuilding or repair.

(6) Any official regulation or practice that authorizes or encourages persons or firms engaged in shipbuilding or repair to enter into anticompetitive arrangements.

(7) Any indirect support directly related, in law or in fact, to shipbuilding and repair at national yards, including any public assistance favoring shipowners with an indirect effect on shipbuilding or repair activities, and any assistance provided to suppliers of significant inputs to shipbuilding, which results in benefits to domestic shipbuilders.

(8) Any export subsidy identified in the Illustrative List of Export Subsidies in the Annex to the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade or any other export subsidy that may be prohibited as a result of the Uruguay Round of trade negotiations.

#### **SEC. 608. USE OF VESSELS.**

33 USC 891f.

(a) **VESSEL AGREEMENTS.**—In implementing the NOAA fleet replacement and modernization program, the Secretary shall use excess capacity of UNOLS vessels where appropriate and may enter into memoranda of agreement with the operators of these vessels to carry out this requirement.

(b) **REPORT TO CONGRESS.**—Within one year after the date of enactment of this Act, the Comptroller General of the United States shall provide a report to Congress, in consultation with the Secretary, comparing the cost-efficiency, accounting, and operating practices of the vessels of NOAA, UNOLS, other Federal agencies, and the United States private sector in meeting the missions of NOAA.

#### **SEC. 609. INTEROPERABILITY.**

33 USC 891g.

The Secretary shall consult with the Oceanographer of the Navy regarding appropriate measures that should be taken, on a reimbursable basis, to ensure that NOAA vessels are interoperable with vessels of the Department of the Navy, including with respect to operation, maintenance, and repair of those vessels.

#### **SEC. 610. AUTHORIZATION OF APPROPRIATIONS.**

33 USC 891h.

(a) **IN GENERAL.**—There are authorized to be appropriated to the Secretary for carrying out this title—

- (1) \$50,000,000 for fiscal year 1993;
- (2) \$100,000,000 for fiscal year 1994; and
- (3) such sums as are necessary for each of the fiscal years 1995, 1996, and 1997.

(b) **LIMITATION ON FLEET MODERNIZATION ACTIVITIES.**—All National Oceanic and Atmospheric Administration fleet modernization shipbuilding, and conversion shall be conducted in accordance with this title.

### **TITLE VII—WEATHER SERVICE MODERNIZATION**

Weather Service  
Modernization  
Act.  
15 USC 313 note.

#### **SEC. 701. SHORT TITLE.**

This title may be cited as the “Weather Service Modernization Act”.

#### **SEC. 702. DEFINITIONS.**

For the purposes of this title, the term—

- (1) “automate” means to replace employees with automated weather service equipment;
- (2) “change operations at a field office” means transfer service responsibility, commission weather observation systems,

decommission a National Weather Service radar, change staffing levels significantly, or move a field office to a new location inside the local commuting and service area;

(3) "Committee" means the Modernization Transition Committee established by section 707;

(4) "degradation of service" means any decrease in or failure to maintain the quality and type of weather services provided by the National Weather Service to the public in a service area, including but not limited to a reduction in existing weather radar coverage at an elevation of 10,000 feet;

(5) "field office" means any National Weather Service Office or National Weather Service Forecast Office;

(6) "Plan" means the National Implementation Plan required under section 703;

(7) "relocate" means to transfer from one location to another location that is outside the local commuting or service area;

(8) "Secretary" means the Secretary of Commerce;

(9) "service area" means the geographical area for which a field office provides services or conducts observations, including but not limited to local forecasts, severe weather warnings, aviation support, radar coverage, and ground weather observations; and

(10) "Strategic Plan" means the 10-year strategic plan for the comprehensive modernization of the National Weather Service, required under section 407 of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989 (15 U.S.C. 313 note).

#### SEC. 703. NATIONAL IMPLEMENTATION PLAN.

(a) NATIONAL IMPLEMENTATION PLAN.—As part of the budget justification documents submitted to Congress in support of the annual budget request for the Department of Commerce, the Secretary shall include a National Implementation Plan for modernization of the National Weather Service for each fiscal year following fiscal year 1993 until such modernization is complete. The Plan shall set forth the actions, during the 2-year period beginning with the fiscal year for which the budget request is made, that will be necessary to accomplish the objectives described in the Strategic Plan, and shall include—

(1) detailed requirements for new technologies, facilities, staffing levels and positions, and funding, in accordance with the overall schedule for modernization;

(2) notification of any proposed action to change operations at a field office and the intended date of such operational change;

(3) identification of any field office that the Secretary intends to certify under section 706, including the intended date of such certification;

(4) special measures to test, evaluate, and demonstrate key elements of the modernized National Weather Service operations prior to national implementation, including a multistation operational demonstration which tests the performance of the modernization in an integrated manner for a sustained period;

(5) detailed plans and funding requirements for meteorological research to be accomplished under this title to assure that new techniques in forecasting will be developed to utilize

the new technologies being implemented in the modernization; and

(6) training and education programs to ensure that employees gain the necessary expertise to utilize the new technologies and to minimize employee displacement as a consequence of modernization.

(b) TRANSMITTAL TO COMMITTEE.—The Secretary shall transmit a copy of each annual Plan to the Committee.

(c) CONSULTATION.—In developing the Plan, the Secretary shall consult, as appropriate, with the Committee and public entities responsible for providing or utilizing weather services.

#### SEC. 704. MODERNIZATION CRITERIA.

(a) NATIONAL RESEARCH COUNCIL REVIEW.—The Secretary shall contract with the National Research Council for a review of the scientific and technical modernization criteria by which the Secretary proposes to certify action to close, consolidate, automate, or relocate a field office under section 706. In conducting such review, the National Research Council shall prepare and submit to the Secretary, no later than 9 months after the date of enactment of this Act, a report which—

Reports.

(1) assesses requirements and procedures for commissioning new weather observation systems, decommissioning an outdated National Weather Service radar, and evaluating staffing needs for field offices in an affected service area;

(2) assesses the statistical and analytical measures that should be made for a service area to form an adequate basis for determining that there will be no degradation of service; and

(3) includes such other recommendations as the National Research Council determines are appropriate to ensure public safety.

(b) CRITERIA.—No later than 12 months after the date of enactment of this Act, the Secretary, in consultation with the National Research Council and the Committee and after notice and opportunity for public comment, shall publish in the Federal Register modernization criteria (including all requirements and procedures), based on the report required under this section, for—

Federal Register, publication.

(1) commissioning new weather observation systems, decommissioning an outdated National Weather Service radar, and evaluating staffing needs for field offices in an affected service area; and

(2) certifying action to close, consolidate, automate, or relocate a field office under section 706.

#### SEC. 705. CHANGES IN FIELD OFFICE OPERATIONS.

(a) NOTIFICATION.—The Secretary shall not change operations at a field office pursuant to implementation of the Strategic Plan unless the Secretary has provided the notification required by section 703.

(b) WEATHER RADAR DECOMMISSIONING.—The Secretary shall not remove or permanently decommission any National Weather Service radar until the Secretary has prepared radar commissioning and decommissioning reports documenting that such action would be consistent with the modernization criteria established under section 704(b)(1). The commissioning report shall document that the radar system performs reliably, satisfactory maintenance support is in place, sufficient staff with adequate training are present

Reports.

to operate the system, technical coordination with weather service users has been completed, and the radar being commissioned satisfactorily supports field office operations. The decommissioning report shall document that the replacement radar has been commissioned, technical coordination with service users has been completed, and the radar being decommissioned is no longer needed to support field office operations.

(c) **SURFACE OBSERVING SYSTEM COMMISSIONING.**—The Secretary may not commission an automated surface observing system located at an airport unless it is determined, in consultation with the Secretary of Transportation, that the weather services provided after commissioning will continue to be in full compliance with applicable flight aviation rules promulgated by the Federal Aviation Administration.

**SEC. 706. RESTRUCTURING FIELD OFFICES.**

**SEC. 706. (a) PROHIBITION.**—The Secretary shall not close, before January 1, 1996, any field office pursuant to implementation of the Strategic Plan.

(b) **CERTIFICATION.**—The Secretary shall not close, consolidate, automate, or relocate any field office, unless the Secretary has certified that such action will not result in any degradation of service. Such certification shall include—

(1) a description of local weather characteristics and weather-related concerns which affect the weather services provided within the service area;

(2) a detailed comparison of the services provided within the service area and the services to be provided after such action;

(3) a description of any recent or expected modernization of National Weather Service operations which will enhance services in the service area;

(4) an identification of any area within any State which would not receive coverage (at an elevation of 10,000 feet) by the next generation weather radar network;

(5) evidence, based upon operational demonstration of modernized National Weather Service operations, which was considered in reaching the conclusion that no degradation in service will result from such action; and

(6) any report of the Committee submitted under section 707(c) that evaluates the proposed certification.

(c) **PUBLIC REVIEW.**—Each certification decision shall be preceded by—

(1) publication in the Federal Register of a proposed certification; and

(2) a 60-day period after such publication during which the public may provide comments to the Secretary on the proposed certification.

(d) **FINAL DECISION.**—If after consideration of the public comment received under subsection (c) the Secretary, in consultation with the Committee, decides to close, consolidate, automate, or relocate any such field office, the Secretary shall publish a final certification in the Federal Register and submit the certification to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives.

Federal  
Register,  
publication.

Federal  
Register,  
publication.

(e) **SPECIAL CIRCUMSTANCES.**—The Secretary may not close or relocate any field office—

(1) which is located at an airport, unless the Secretary, in consultation with the Secretary of Transportation and the Committee, first conducts an air safety appraisal, determines that such action will not result in degradation of service that affects aircraft safety, and includes such determination in the certification required under subsection (b); or

(2) which is the only office in a State, unless the Secretary first evaluates the effect on weather services provided to in-State users, such as State agencies, civil defense officials, and local public safety offices, and includes in the certification required under subsection (b) the Secretary's determination that a comparable level of weather services provided to such in-State users will remain.

(f) **LIAISON OFFICER.**—The Secretary may not close, consolidate, automate, or relocate a field office until arrangements have been made to maintain for a period of at least 2 years at least one person in the service area to act as a liaison officer who—

(1) provides timely information regarding the activities of the National Weather Service which may affect service to the community, including modernization and restructuring; and

(2) works with area weather service users, including persons associated with general aviation, civil defense, emergency preparedness, and the news media, with respect to the provision of timely weather warnings and forecasts.

#### **SEC. 707. MODERNIZATION TRANSITION COMMITTEE.**

(a) **ESTABLISHMENT.**—There is established a committee of 12 members to be known as the Modernization Transition Committee.

(b) **MEMBERSHIP AND TERMS.**—(1) The Committee shall consist of—

(A) five members representing agencies and departments of the United States which are responsible for providing or using weather services, including but not limited to the National Weather Service, the Department of Defense, the Federal Aviation Administration, and the Federal Emergency Management Agency; and

(B) seven members to be appointed by the Secretary from civil defense and public safety organizations, news media, any labor organization certified by the Federal Labor Relations Authority as an exclusive representative of weather service employees, meteorological experts, and private sector users of weather information such as pilots and farmers.

(2) The terms of office of a member of the Committee shall be 3 years; except that, of the original membership, four shall serve a 5-year term, four shall serve a 4-year term, and four shall serve a 3-year term. No individual may serve for more than one additional 3-year term.

(3) The Secretary shall designate a chairman of the Committee from among its members.

(c) **DUTIES.**—(1) The Committee may review any proposed certification under section 706 for which the Secretary has provided a notice of intent to certify in the Plan, and should review such a proposed certification if there is a significant possibility of degradation of service within the affected service area. Upon the request of the Committee, the Secretary shall make available to



the Committee the supporting documents developed by the Secretary in connection with the proposed certification. The Committee may prepare and submit to the Secretary, prior to publication of the proposed certification, a report which evaluates the proposed certification on the basis of the modernization criteria and with respect to the requirement that there be no degradation of service.

(2) The Committee shall advise the Congress and the Secretary on—

(A) the implementation of the Strategic Plan, annual development of the Plan, and establishment and implementation of modernization criteria; and

(B) matters of public safety and the provision of weather services which relate to the comprehensive modernization of the National Weather Service.

(d) **PAY AND TRAVEL EXPENSES.**—Members of the Committee who are not employees of the United States shall each be paid at a rate equal to the daily equivalent of the rate for GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the actual performance of duties vested in the Committee. Members shall receive travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.

(e) **STAFF.**—The Secretary shall make available to the Committee such staff, information, and assistance as it may reasonably require to carry out its activities.

(f) **TERMINATION.**—The Committee shall terminate on December 31, 1999.

#### **SEC. 708. WEATHER SERVICE REPORT.**

(a) **REPORT.**—The Secretary shall prepare a report on the proposed modernization of the National Weather Service and transmit the report, not later than 6 months after the date of enactment of this Act, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives.

(b) **CONTENTS.**—(1) The report required by subsection (a) shall identify the size of the geographic area of responsibility of each proposed Weather Forecast Office and shall include an explanation of the number and type of personnel required at each Weather Forecast Office. For each proposed Weather Forecast Office covering a geographic area greater than two times the average geographic area of responsibility of Weather Forecast Offices nationwide, the report shall detail the reasons for assigning those Weather Forecast Offices a geographic area which differs significantly from the national average.

(2) The report shall list the number of next generation weather radars that will be associated with each Weather Forecast Office nationwide under the proposed modernization plan. If some Weather Forecast Offices will be associated with more than one such radar, the report shall explain the deviation from the National Weather Service's stated policy of associating one such radar with one Weather Forecast Office, and shall analyze and compare any differences in the expected efficiency of those Weather Forecast Offices with Weather Forecast Offices that will be associated with only one such radar.

(c) **CONSULTATION.**—In preparing portions of the report that address Weather Forecast Offices located in areas of the Nation that are uniquely dependent on general aviation as a means of transportation, the Secretary shall consult with local aviation groups. In the case of Alaska, such local groups shall include the Alaska Aviation Safety Foundation, the Alaska Airmen's Association, and the regional representatives of the Aircraft Owners and Pilots Association.

Alaska.

**SEC. 709. REPEALS.**

The National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989 (15 U.S.C. 313 note), is amended by repealing—

- (1) subsections (b), (c), and (d) of section 407; and
- (2) section 408.

## **TITLE VIII—NORTH PACIFIC ANADROMOUS STOCKS CONVENTION**

North Pacific  
Anadromous  
Stocks Act of  
1992.  
16 USC 5001  
note.

**SEC. 801. SHORT TITLE.**

This title may be cited as the "North Pacific Anadromous Stocks Act of 1992".

**SEC. 802. PURPOSE.**

16 USC 5001.

It is the purpose of this title to implement the Convention for the Conservation of Anadromous Stocks in the North Pacific Ocean, signed in Moscow, February 11, 1992.

**SEC. 803. DEFINITIONS.**

16 USC 5002.

As used in this title, the term—

(1) "Anadromous stocks" means stocks of species listed in the Annex to the Convention that migrate into the Convention area.

(2) "Anadromous fish" means fish of the species listed in the Annex to the Convention that migrate into the Convention area.

(3) "Authorized officer" means a law enforcement official authorized to enforce this title under section 809(a).

(4) "Commission" means the North Pacific Anadromous Fish Commission provided for by article VIII of the Convention.

(5) "Convention" means the Convention for the Conservation of Anadromous Stocks of the North Pacific Ocean, signed in Moscow, February 11, 1992.

(6) "Convention area" means the waters of the North Pacific Ocean and its adjacent seas, north of 33 degrees North Latitude, beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.

(7) "Directed fishing" means fishing targeted at a particular species or stock of fish.

(8) "Ecologically related species" means living marine species which are associated with anadromous stocks found in the Convention area, including, but not restricted to, both predators and prey of anadromous fish.

(9) "Enforcement officer" means a law enforcement official authorized by any Party to enforce this title.

(10) "Exclusive economic zone" means the zone established by Proclamation Numbered 5030, dated March 10, 1983. For purposes of applying this title, the inner boundary of that

zone is a line coterminous with the seaward boundary of each of the coastal States.

(11) "Fish" means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life other than marine mammals and birds.

(12) "Fishing" means—

(A) the catching, taking, or harvesting of fish, or any other activity that can reasonably be expected to result in the catching, taking, or harvesting of fish; or

(B) any operation at sea in preparation for or in direct support of any activity described in subparagraph (A).

(13) "Fishing vessel" means—

(A) any vessel engaged in catching fish within the Convention area or in processing or transporting fish loaded in the Convention area;

(B) any vessel outfitted to engage in any activity described in subparagraph (A);

(C) any vessel described in subparagraph (A) or (B).

(14) "Incidental taking" means catching, taking, or harvesting a species or stock of fish while conducting directed fishing for another species or stock of fish.

(15) "Party" means Canada, Japan, the Russian Federation, the United States, and any other nation that may accede to the Convention.

(16) "Secretary" means the Secretary of State.

(17) "United States Section" means the United States Commissioners of the Commission.

16 USC 5003.

#### SEC. 804. UNITED STATES COMMISSIONERS.

(a) COMMISSIONERS.—The United States shall be represented on the Commission by not more than three United States Commissioners to be appointed by and serve at the pleasure of the President. Each United States Commissioner shall be appointed for a term of office not to exceed 4 years, but is eligible for reappointment. Of the Commissioners—

(1) one shall be an official of the United States Government;

(2) one shall be a resident of the State of Alaska; and

(3) one shall be a resident of the State of Washington.

An individual is not eligible for appointment under paragraph (2) or (3) as a Commissioner unless the individual is knowledgeable or experienced concerning the anadromous stocks and ecologically related species of the North Pacific Ocean.

(b) ALTERNATE COMMISSIONERS.—The Secretary, in consultation with the Secretary of Commerce, may designate from time to time Alternate United States Commissioners to the Commission. An Alternate United States Commissioner may exercise all designated powers and duties of a United States Commissioner in the absence of a duly designated Commissioner for whatever reason. The number of such Alternate United States Commissioners that may be designated for any such meeting shall be limited to the number of authorized United States Commissioners that will not be present.

(c) UNITED STATES SECTION.—The United States Section, in consultation with the Advisory Panel established in section 805, shall identify and recommend to the Commission research needs and priorities for anadromous stocks and ecologically related species subject to the Convention, and oversee the United States research programs involving such fisheries, stocks, and species.

(d) **COMPENSATION.**—United States Commissioners and Alternate United States Commissioners shall receive no compensation for their services as Commissioners and Alternate Commissioners.

**SEC. 805. ADVISORY PANEL.**

16 USC 5004.

(a) **ESTABLISHMENT OF PANEL.**—An Advisory Panel to the United States Section is established. The Advisory Panel shall be composed of the following:

(1) The Commissioner of the Alaska Department of Fish and Game.

(2) The Director of the Washington Department of Fisheries.

(3) One representative of the Pacific States Marine Fisheries Commission, designated by the Executive Director of that commission.

(4) Eleven members (six of whom shall be residents of the State of Alaska and five of whom shall be residents of the State of Washington), appointed by the Secretary, in consultation with the Secretary of Commerce, from among a slate of 12 persons nominated by the Governor of Alaska and a slate of 10 persons nominated by the Governor of Washington.

(b) **QUALIFICATIONS.**—Persons appointed to the Advisory Panel shall be individuals who are knowledgeable or experienced concerning anadromous stocks and ecologically related species. In submitting a slate of nominees pursuant to subsection (a)(4), the Governors of Alaska and Washington shall seek to represent the broad range of parties interested in anadromous stocks and ecologically related species, and at a minimum shall include on each slate at least one representative of commercial salmon fishing interests and of environmental interests concerned with protection of living marine resources.

(c) **LIMITATION ON SERVICE.**—Any person appointed to the Advisory Panel pursuant to subsection (a)(4) shall serve for a term not to exceed 4 years, and may not serve more than two consecutive terms.

(d) **FUNCTIONS.**—The Advisory Panel shall be invited to all nonexecutive meetings of the United States Section and at such meetings shall be granted the opportunity to examine and to be heard on all proposed programs of study and investigation, reports, and recommendations of the United States Section.

(e) **COMPENSATION AND EXPENSES.**—The members of the Advisory Panel shall receive no compensation or travel expenses for their services as such members.

**SEC. 806. COMMISSION RECOMMENDATIONS.**

16 USC 5005.

The Secretary, with the concurrence of the Secretary of Commerce, may accept or reject, on behalf of the United States, recommendations made by the Commission in accordance with article IX of the Convention.

**SEC. 807. ADMINISTRATION AND ENFORCEMENT OF CONVENTION.**

16 USC 5006.

(a) **RESPONSIBILITIES.**—The Secretary of Commerce shall be responsible for administering provisions of the Convention, this title, and regulations issued under this title. The Secretary, in consultation with the Secretary of Commerce and the Secretary of Transportation, shall be responsible for coordinating the participation of the United States in the Commission.

Regulations.

(b) **CONSULTATION AND COOPERATION.**—In carrying out such functions, the Secretary of Commerce—

(1) shall, in consultation with the Secretary of Transportation and the United States Section, issue such regulations as may be necessary to carry out the purposes and objectives of the Convention and this title; and

(2) may, with the concurrence of the Secretary, cooperate with the authorized officials of the government of any Party.

16 USC 5007.

**SEC. 808. COOPERATION WITH OTHER AGENCIES.**

(a) **IN GENERAL.**—Any agency of the Federal Government is authorized, upon request of the Commission, to cooperate in the conduct of scientific and other programs, and to furnish, on a reimbursable basis, facilities and personnel for the purpose of assisting the Commission in carrying out its duties under the Convention. Such agency may accept reimbursement from the Commission.

(b) **FUNCTIONS OF SECRETARY OF COMMERCE.**—In carrying out the provisions of the Convention and this title, the Secretary of Commerce may arrange for cooperation with agencies of the United States, the States, private institutions and organizations, and agencies of the government of any Party, to conduct scientific and other programs, and may execute such memoranda as may be necessary to reflect such agreements.

16 USC 5008.

**SEC. 809. ENFORCEMENT PROVISIONS.**

(a) **DUTIES OF SECRETARIES OF COMMERCE AND TRANSPORTATION.**—This title shall be enforced by the Secretary of Commerce and the Secretary of Transportation. Such Secretaries may by agreement utilize, on a reimbursable basis or otherwise, the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal agency, including all elements of the Department of Defense, and of any State agency, in the performance of such duties. Such Secretaries shall, and the head of any Federal or State agency that has entered into an agreement with either such Secretary under the preceding sentence may (if the agreement so provides), authorize officers to enforce the provisions of the Convention, this title, and regulations issued under this title. Any such agreement or contract entered into pursuant to this section shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

(b) **DISTRICT COURT JURISDICTION.**—The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under the provisions of this title.

(c) **POWERS OF ENFORCEMENT OFFICERS.**—Authorized officers may, shoreward of the outer boundary of the exclusive economic zone, or during hot pursuit from the zone—

(1) with or without a warrant or other process—

(A) arrest any person, if the officer has reasonable cause to believe that such person has committed an act prohibited by section 810;

(B) board, and search or inspect, any fishing vessel subject to the provisions of the Convention and this title;

(C) seize any fishing vessel (together with its fishing gear, furniture, appurtenances, stores, and cargo) used or employed in, or with respect to which it reasonably appears that such vessel was used or employed in, the violation of any provision of the Convention, this title, or regulations issued under this title;

(D) seize any fish (wherever found) taken or retained in violation of any provision referred to in subparagraph (C);

(E) seize any other evidence related to any violation of any provision referred to in subparagraph (C);

(2) execute any warrant or other process issued by any court of competent jurisdiction; and

(3) exercise any other lawful authority.

(d) **ADDITIONAL POWERS.**—(1) An authorized officer may in the Convention area—

(A) board a vessel of any Party that reasonably can be believed to be engaged in directed fishing for, incidental taking of, or processing of anadromous fish, and, without warrant or process, inspect equipment, logs, documents, catch, and other articles, and question persons, on board the vessel, for the purpose of carrying out the provisions of the Convention, this title, or any regulation issued under this title; and

(B) If any such vessel or person on board is actually engaged in operations in violation of any such provision, or there is reasonable ground to believe any person or vessel was obviously so engaged before the boarding of such vessel by the authorized officer, arrest or seize such person or vessel and further investigate the circumstance if necessary.

If an authorized officer, after boarding and investigation, has reasonable cause to believe that any such fishing vessel or person engaged in operations in violation of any provision referred to in subparagraph (A), the officer shall deliver the vessel or person as promptly as practicable to the enforcement officers of the appropriate Party, in accordance with the provisions of the Convention.

(2) When requested by the appropriate authorities of a Party, an authorized officer may be directed to attend as a witness, and to produce such available records and files or duly certified copies thereof as may be necessary, for the prosecution by that Party of any violation of the provisions of the Convention or any law of that Party relating to the enforcement thereof.

#### **SEC. 810. UNLAWFUL ACTIVITIES.**

16 USC 5009.

It is unlawful for any person or fishing vessel subject to the jurisdiction of the United States—

(1) to fish for any anadromous fish in the Convention area;

(2) to retain on board any anadromous fish taken incidentally in a fishery directed at nonanadromous fish in the Convention area;

(3) to fail to return immediately to the sea any anadromous fish taken incidentally in a fishery directed at nonanadromous fish in the Convention area;

(4) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any anadromous fish taken or retained in violation of the Convention, this title, or any regulation issued under this title;

(5) to refuse to permit any enforcement officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of the Convention, this title, or any regulation issued under this title;

(6) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any enforcement officer in the conduct of any search or inspection described in paragraph (5);

(7) to resist a lawful arrest or detection for any act prohibited by this section;

(8) to interfere with, delay, or prevent, by any means, the apprehension, arrest, or detection of another person, knowing that such person has committed any act prohibited by this section; or

(9) to violate any provision of the Convention, this title, or any regulation issued under this title.

16 USC 5010.

#### SEC. 811. PENALTIES.

(a) CIVIL PENALTIES.—(1) Any person who is found by the Secretary of Commerce, after notice and opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by section 810 shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed \$100,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Secretary of Commerce, or the Secretary's designee, by written notice. In determining the amount of such penalty, the Secretary of Commerce shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violation, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

(2) Any person against whom a civil penalty is assessed under paragraph (1) may obtain review thereof in the appropriate court of the United States by filing a complaint in such court within 30 days from the date of such order and by simultaneously serving a copy of such complaint by certified mail on the Secretary of Commerce, the Attorney General, and the appropriate United States Attorney. The Secretary of Commerce shall promptly file in such court a certified copy of the record upon which such violation was found or such penalty imposed, as provided in section 2112 of title 28, United States Code. The findings and order of the Secretary of Commerce shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706(2) of title 5, United States Code.

(3) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary of Commerce, the matter shall be referred to the Attorney General, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(4) A fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used in the commission of an act prohibited by section 810 shall be liable in rem for any civil penalty assessed for such violation under paragraph (1) and may be proceeded against in any district court of the United States having jurisdiction thereof. Such penalty shall constitute a maritime lien on such vessel that may be recovered in an action in rem in the district court of the United States having jurisdiction over the vessel.

(5) The Secretary of Commerce may compromise, modify, or remit, with or without conditions, any civil penalty that is subject to imposition or that has been imposed under this section.

(6) For the purposes of conducting any hearing under this section, the Secretary of Commerce may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contempt or refusal to obey a subpoena served upon any person pursuant to this paragraph, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary of Commerce or to appear and produce documents before the Secretary of Commerce, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(b) OFFENSES.—(1) A person is guilty of an offense if the person commits any act prohibited by section 810 (5), (6), (7), or (8).

(2) Any offense described in paragraph (1) is a class A misdemeanor punishable by a fine under title 18, United States code, or imprisonment for not more than 6 months, or both; except that if in the commission of any offense the person uses a dangerous weapon, engages in conduct that causes bodily injury to any enforcement officer, or places any such officer in fear of imminent bodily injury, the offense is a felony punishable by a fine under title 18, United States Code, or imprisonment for not more than 10 years, or both.

(c) FORFEITURE.—(1) Any fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used, and any fish (or a fair market value thereof) taken or retained, in any manner, in connection with or as a result of the commission of any act prohibited by section 810 shall be subject to forfeiture to the United States. All or part of such vessel may, and all such fish shall, be forfeited to the United States pursuant to a civil proceeding under this section.

(2) Any district court of the United States shall have jurisdiction, upon application of the Attorney General on behalf of the United States, to order any forfeiture authorized under paragraph (1) and any action provided for under paragraph (4).

(3) if a judgment is entered for the United States in a civil forfeiture proceeding under this section, the Attorney General may seize any property or other interest declared forfeited to the United States, which has not previously been seized pursuant to this title or for which security has not previously been obtained. The provisions of the customs laws relating to—

(A) the seizure, forfeiture, and condemnation of property for violation of the customs law;

(B) the disposition of such property or the proceeds from the sale thereof; and

(C) the remission or mitigation of any such forfeiture; shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this title, unless such provisions are inconsistent with the purposes, policy, and provisions of this title.



(4)(A) Any officer authorized to serve any process in rem that is issued by a court having jurisdiction under section 809(b) shall—

(i) stay the execution of such process; or

(ii) discharge any fish seized pursuant to such process; upon receipt of a satisfactory bond or other security from any person claiming such property. Such bond or other security shall be conditioned upon such person delivering such property to the appropriate court upon order thereof, without any impairment of its value, or paying the monetary value of such property pursuant to an order of such court. Judgment shall be recoverable on such bond or other security against both the principal and any sureties in the event that any condition thereof is breached, as determined by such court.

(B) Any fish seized pursuant to this title may be sold, subject to the approval and direction of the appropriate court, for not less than the fair market value thereof. The proceeds of any such sale shall be deposited with such court pending the disposition of the matter involved.

(5) For purposes of this section, it shall be a rebuttable presumption that all fish found on board a fishing vessel and which is seized in connection with an act prohibited by section 810 were taken or retained in violation of the Convention and this title.

16 USC 5011.

#### **SEC. 812. FUNDING REQUIREMENTS.**

(a) **AUTHORIZATION.**—There are authorized to be appropriated from time to time such sums as may be necessary for carrying out the purposes and provisions of the Convention and this title, including—

(1) necessary travel expenses of the United States Commissioners or Alternate Commissioners; and

(2) the United States' share of the joint expenses of the Commission.

(b) **RESEARCH.**—Such funds as shall be made available to the Secretary of Commerce for research and related activities shall be expended to carry out the program of the Commission in accordance with the recommendations of the United States Section and to carry out other research and observer programs pursuant to the Convention.

16 USC 5012.

#### **SEC. 813. DISPOSITION OF PROPERTY.**

The Secretary shall dispose of any United States property held by the International North Pacific Fisheries Commission on the date of its termination in a manner that would further the purposes of this title.

#### **SEC. 814. REPEAL OF THE NORTH PACIFIC FISHERIES ACT OF 1954.**

The Act of August 12, 1954 (16 U.S.C. 1021-1035) is repealed.

### **TITLE IX—NEW ENGLAND GROUND FISH**

#### **SEC. 901. FISHERY ENFORCEMENT.**

Section 311 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1861) is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting immediately after subsection (e) the following new subsection:

**"(f) ENFORCEMENT OF NORTHEAST MULTISPECIES FISHERY MANAGEMENT PLAN.—**

**"(1) ENFORCEMENT AGREEMENTS.—**Beginning not later than October 1, 1993, the Secretary shall, if requested by the Governor of a State represented on the New England Fishery Management Council, enter into an agreement under subsection (a), with each of the States represented on such Council, that authorizes the marine law enforcement agency of such State to perform duties of the Secretary relating to enforcement of the Northeast Multispecies Fishery Management Plan.

**"(2) REIMBURSEMENT.—**An agreement with a State under this subsection shall provide, subject to the availability of appropriations, for reimbursement of the State for expenses incurred in detection and prosecution of violations of any fishery management plan approved by the Secretary.

**"(3) COAST GUARD ENFORCEMENT WORKING GROUP.—**

**"(A) ESTABLISHMENT.—**The Commander of the First Coast Guard District shall establish an informal fisheries enforcement working group to improve the overall compliance with and effectiveness of the regulations issued under the Northeast Multispecies Fishery Management Plan.

**"(B) MEMBERSHIP.—**The working group shall consist of members selected by the Commander, and shall include—

**"(i)** individuals who are representatives of various fishing ports located in the States represented on the New England Fishery Management Council;

**"(ii)** captains of fishing vessels that operate in waters under the jurisdiction of that Council; and

**"(iii)** other individuals the Commander considers appropriate.

**"(C) NON-FEDERAL STATUS OF WORKING GROUP MEMBERS.—**An individual shall not receive any compensation for, and shall not be considered to be a Federal employee based on, membership in the working group.

**"(D) MEETINGS.—**The working group shall meet, at the call of the Commander, at least 4 times each year. The meetings shall be held at various major fishing ports in States represented on the New England Fishery Management Council, as specified by the Commander.

**"(4) USE OF FINES AND PENALTIES.—**Amounts available to the Secretary under this Act which are attributable to fines and penalties imposed for violations of the Northeast Multispecies Fishery Management Plan shall be used by the Secretary pursuant to this section to enforce that Plan."

**SEC. 902. FISHERIES REINVESTMENT PROGRAM.**

**(a) PROGRAM.—**Title III of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1851 et seq.) is amended by adding at the end the following:

**"SEC. 314. NORTHWEST ATLANTIC OCEAN FISHERIES REINVESTMENT PROGRAM. 16 USC 1863.**

**"(a) PROGRAM.—**(1) Not later than October 1, 1993, the Secretary shall establish a Northwest Atlantic Ocean Fisheries Reinvestment Program for the purposes of—

"(A) promoting development of commercial fisheries and markets for underutilized species of the northwest Atlantic Ocean;

"(B) developing alternative fishing opportunities for participants in the New England groundfish fishery;

"(C) providing technical support and assistance to United States fishermen and fish processors to improve the value-added processing of underutilized species and to make participation in fisheries for underutilized species of the northwest Atlantic Ocean economically viable;

"(D) creating new economic opportunities through the improved processing and expanded use of fish waste; and

"(E) helping to restore overfished New England groundfish stocks through aquaculture or hatchery programs.

"(2) CONSULTATION.—In establishing and implementing the Northwest Fisheries Reinvestment Program, the Secretary shall consult with representatives of the commercial fishing industry, the seafood processing industry, and the academic community (including the National Sea Grant Program).

"(3) ACTIVITIES UNDER PROGRAM.—Subject to the availability of appropriations, the Secretary shall award contracts, grants and other financial assistance to United States citizens to carry out the purposes of subsection (1), under the terms and conditions provided in section 2(c) of the Act of August 11, 1939 (15 U.S.C. 713c-3(c); commonly referred to as the "Saltonstall-Kennedy Act"), except that, in making awards under this section for projects involving participation in fisheries for underutilized species, the Secretary shall give the highest priority to a person who owns or operates a fishing vessel permitted under this Act to participate in the New England groundfish fishery who agrees to surrender that permit to the Secretary during the duration of the contract, grant or other assistance.

"(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$5,000,000 for each of fiscal years 1993 through 1997 to carry out the purposes of this section. For fiscal year 1993 no more than \$1,000,000, and for fiscal year 1994 no more than \$2,000,000, of such funds may be provided from monies made available under section 2(b) of the Act of August 11, 1939 (15 U.S.C. 713c-3(b)).

"(b) ASSISTANCE OF OTHER AGENCIES.—The Secretary shall actively seek the assistance of other Federal agencies in the development of fisheries for underutilized species of the northwest Atlantic Ocean, including, to the extent permitted by other applicable laws, assistance from the Secretary of Agriculture in including such underutilized species as agricultural commodities in the programs of the Foreign Agricultural Service for which amounts are authorized under the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 104 Stat. 3359).

"(c) MANAGEMENT PLANS FOR UNDERUTILIZED SPECIES.—The New England Fishery Management Council, in consultation with other appropriate Councils, shall develop fishery management plans as soon as possible for any underutilized species of the northwest Atlantic Ocean that is not covered under such a plan, in order to prevent overfishing of that species.

"(d) UNDERUTILIZED SPECIES DEFINED.—For purposes of this section, the term 'underutilized species of the northwest Atlantic Ocean' means any fish species of the northwest Atlantic Ocean

Contracts.  
Grants.

that is identified, by the Director of the Northeast Fisheries Center of the National Marine Fisheries Service, as an underutilized species.”.

(b) **CONFORMING AMENDMENT.**—The table of contents in the first section of the Magnuson Fishery Conservation and Management Act is amended by inserting immediately after the item relating to section 313 the following new item:

“Sec. 314. Northwest Atlantic Oceans Fisheries Reinvestment Program.”.

(c) **AMENDMENTS TO THE SALTONSTALL-KENNEDY ACT.**—Section 2(b)(1)(A) of the Act of August 11, 1939 (15 U.S.C. 713c-3(b)(1)(A)); commonly referred to as the “Saltonstall-Kennedy Act”), is amended—

(1) by striking “and” at the end of clause (i); and

(2) by adding at the end the following new clause:

“(iii) to implement the Northwest Atlantic Ocean Fisheries Reinvestment Program established under section 314 of the Magnuson Fishery Conservation and Management Act.”.

Approved October 29, 1992.

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**LEGISLATIVE HISTORY—H.R. 2130 (S. 1405):**

**HOUSE REPORTS:** No. 102-133, Pt. 1 (Comm. on Merchant Marine and Fisheries) and Pt. 2 (Comm. on Ways and Means).

**SENATE REPORTS:** No. 102-198 accompanying S. 1405 (Comm. on Commerce, Science and Transportation).

**CONGRESSIONAL RECORD:**

Vol. 137 (1991): Nov. 20, considered and passed House.

Vol. 138 (1992): Aug. 12, considered and passed Senate, amended, in lieu of S. 1405.

Oct. 5, House concurred in Senate amendment with an amendment.

Oct. 7, Senate concurred in House amendment.

**WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS**, Vol. 28 (1992):

Oct. 28, Presidential statement.

Public Law 102-568  
102d Congress

An Act

Oct. 29, 1992  
[H.R. 5008]

Veterans'  
Benefits Act of  
1992.

38 USC 101 note.

To amend title 38, United States Code, to reform the formula for payment of dependency and indemnity compensation to survivors of veterans dying from service-connected causes, to increase the rate of payments for benefits under the Montgomery GI bill, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Veterans’ Benefits Act of 1992”.

(b) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. References to title 38, United States Code.

**TITLE I—REFORM OF THE DEPENDENCY AND INDEMNITY COMPENSATION PROGRAM**

Sec. 101. Short title.

Sec. 102. Reform in payment formula.

Sec. 103. Exception to operation of OBRA provision.

Sec. 104. GAO report relating to the provision of benefits to survivors of veterans and members of the Armed Forces.

**TITLE II—LIFE INSURANCE PROGRAMS**

Sec. 201. Servicemen’s Group Life Insurance.

Sec. 202. Veterans’ Group Life Insurance.

Sec. 203. Supplemental Service Disabled Veterans’ insurance for totally disabled veterans.

Sec. 204. Increase in amount of veterans’ mortgage life insurance.

Sec. 205. Effective date.

**TITLE III—EDUCATIONAL ASSISTANCE PROGRAMS**

Sec. 301. Increase in amount of Montgomery GI Bill basic educational assistance.

Sec. 302. Montgomery GI Bill entitlement dates.

Sec. 303. Extension of period for completing requirements for secondary school diploma.

Sec. 304. Treatment of certain active-duty service toward eligibility for educational assistance.

Sec. 305. Treatment of certain assignments of individuals for purposes of eligibility under Montgomery GI Bill program.

Sec. 306. Treatment of pursuit of education at service academies and certain educational institutions for purposes of eligibility under Montgomery GI Bill program.

Sec. 307. Educational assistance for certain persons whose initial period of obligated service was less than three years.

Sec. 308. Death benefit.

Sec. 309. Clarification of opportunity to withdraw election not to enroll in Montgomery GI Bill program.

Sec. 310. Use of educational assistance for solo flight training.

Sec. 311. Limitation on amount of advance payment of work-study allowance.

Sec. 312. Revision of requirements relating to approval of accredited courses.

Sec. 313. Disapproval of nonaccredited independent study.

Sec. 314. Treatment of advance payments of certain assistance to veterans who die.

Sec. 315. Bar of assistance for persons whose education is paid for as Federal employee training.

Sec. 316. Revision in measurement of courses.

- Sec. 317. Clarification of permitted changes in programs of education.
- Sec. 318. Authority of members of Selected Reserve to receive tutorial assistance.
- Sec. 319. Requirement of attendance certification in apprenticeship program under the Montgomery GI Bill Selected Reserve program.
- Sec. 320. Technical amendments.

#### TITLE IV—VOCATIONAL REHABILITATION AND PENSION PROGRAMS

- Sec. 401. Permanent authority for program of vocational rehabilitation for certain service-disabled veterans.
- Sec. 402. Extension of program of vocational training for certain pension recipients.
- Sec. 403. Permanent authority for protection of health-care eligibility for certain pension recipients.
- Sec. 404. Vocational rehabilitation for certain service-disabled veterans with serious employment handicaps.
- Sec. 405. Increase in subsistence allowance for veterans participating in a rehabilitation program.

#### TITLE V—JOB COUNSELING, TRAINING, AND PLACEMENT SERVICES FOR VETERANS

- Sec. 501. Improvement of disabled veterans' outreach program.
- Sec. 502. Repeal of delimiting date relating to treatment of veterans of the Vietnam Era for disabled veterans' outreach program purposes.
- Sec. 503. Disabled veterans' outreach program priorities.
- Sec. 504. Repeal of requirement that to be represented on advisory committee on veterans employment and training a veterans organization must have a Federal charter.
- Sec. 505. Expansion and extension of veterans readjustment appointments with the Federal Government.
- Sec. 506. Redesignation of sections of chapter 43.

#### TITLE VI—OTHER VETERANS' PROGRAMS

- Sec. 601. Extension of limitation on pension for veterans receiving medicaid-covered nursing home care; applicability to surviving spouses; and facility expenses.
- Sec. 602. Extension of authority to carry out income verification.
- Sec. 603. Access to information necessary for the administration of certain veterans benefits laws.
- Sec. 604. Extension of expiring cost-recovery authority.
- Sec. 605. Exclusion for low-income veterans from medication copayment requirement.
- Sec. 606. Extension of copayment programs.

#### SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

## TITLE I—REFORM OF THE DEPENDENCY AND INDEMNITY COMPENSATION PROGRAM

Dependency and  
Indemnity  
Compensation  
Reform Act of  
1992.

#### SEC. 101. SHORT TITLE.

This title may be cited as the "Dependency and Indemnity Compensation Reform Act of 1992".

38 USC 101 note.

#### SEC. 102. REFORM IN PAYMENT FORMULA.

(a) **SURVIVING SPOUSE BASIC RATE.**—Subsection (a) of section 1311 is amended by striking out the matter preceding the table and inserting in lieu thereof the following:

"(a)(1) Dependency and indemnity compensation shall be paid to a surviving spouse at the monthly rate of \$750.

"(2) The rate under paragraph (1) shall be increased by \$165 in the case of the death of a veteran who at the time of death was in receipt of or was entitled to receive (or but for the receipt of retired pay or retirement pay was entitled to receive) compensation for a service-connected disability that was rated totally disabling for a continuous period of at least eight years immediately preceding death. In determining the period of a veteran's disability for purposes of the preceding sentence, only periods in which the veteran was married to the surviving spouse shall be considered.

"(3) In the case of dependency and indemnity compensation paid to a surviving spouse that is predicated on the death of a veteran before January 1, 1993, the monthly rate of such compensation shall be the amount based on the pay grade of such veteran, as set forth in the following table, if the amount is greater than the total amount determined with respect to that veteran under paragraphs (1) and (2):"

(b) **ADDITIONAL RATE FOR SURVIVING SPOUSE WITH MINOR CHILDREN.**—Subsection (b) of such section is amended by striking out "\$71 for each such child" and inserting in lieu thereof "\$100 for each such child during fiscal year 1993, \$150 for each such child during fiscal year 1994, and \$200 for each such child thereafter".

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on January 1, 1993.

(d) **PAYMENT FOR IMPLEMENTATION OF REVISIONS.**—The costs of implementing, during fiscal years 1993 and 1994, any revisions in the payment of dependency and indemnity compensation to surviving spouses under section 1311 of title 38, United States Code, that result from the amendments made by subsections (a) and (b) shall be paid from amounts available to the Department of Veterans Affairs for the payment of compensation and pension.

38 USC 1311  
note.

38 USC 1311  
note.

38 USC 103 note. **SEC. 103. EXCEPTION TO OPERATION OF OBRA PROVISION.**

(a) **EXCEPTION.**—The amendments made by section 8004 of the Omnibus Budget Reconciliation Act of 1990 (105 Stat. 424) shall not apply to any case in which a legal proceeding to terminate an existing marital relationship was commenced before November 1, 1990, by an individual described in subsection (b) if that proceeding directly resulted in the termination of such marriage.

(b) **COVERED INDIVIDUALS.**—An individual referred to in subsection (a) is an individual who, but for the marital relationship referred to in subsection (a), would be considered to be the surviving spouse of a veteran.

38 USC 1310  
note.

**SEC. 104. GAO REPORT RELATING TO THE PROVISION OF BENEFITS TO SURVIVORS OF VETERANS AND MEMBERS OF THE ARMED FORCES.**

(a) **IN GENERAL.**—The Comptroller General of the United States shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report with respect to the most appropriate combination of financial, health-care, educational, and other survivor benefits to meet the needs of survivors of veterans.

(b) **CONTENTS OF REPORT.**—The report shall include the following:

(1) A review and compilation of data on current and proposed survivor benefits programs that will permit an assessment of the adequacy of such benefits programs, including information on—

(A) in the case of each current and proposed alternative survivor benefits program—

- (i) each benefit provided;
- (ii) the survivors entitled to the benefit;
- (iii) the extent to which survivors are entitled to similar benefits under the program; and
- (iv) the costs of providing such benefits under the program;

(B) the extent to which current and anticipated benefits under current survivor benefits programs meet the current and anticipated financial, health-care, educational, and other needs of survivors; and

(C) the differences, if any, in the survivor benefits provided under current and proposed survivor benefits programs to survivors of various categories of veterans and members of the Armed Forces (including survivors of veterans having service-connected disabilities, veterans without such disabilities, members of the Armed Forces who die during service in the Armed Forces, members of the Armed Forces retired under any provision of law other than chapter 61 of title 10, United States Code, and members of the Armed Forces retired under chapter 61 of title 10, United States Code (relating to retirement or separation for physical disability)).

(2) A review and compilation of existing studies on the adequacy of survivor benefits provided under current and proposed survivor benefits programs to meet the financial, health-care, educational, and other needs of survivors.

(3) A comprehensive assessment and evaluation of the adequacy of current and proposed survivor benefits programs, including data and methods for an assessment and evaluation of—

(A) the feasibility and desirability of limiting the period of entitlement of survivors to survivor benefits;

(B) the feasibility and desirability of modifying the provision of monetary benefits to survivors by—

- (i) revising the term of payment of any such benefits;
- (ii) replacing the periodic payment of such benefits with a lump sum payment;

(iii) providing such benefits through insurance or other premium-based payment mechanisms; or

(iv) carrying out any other revision or modification proposed before the date of the enactment of this Act by the Secretary of Veterans Affairs, the Secretary of Defense, the Secretary of Health and Human Services, or organizations recognized by the Secretary of Veterans Affairs under section 5902(a)(1) of title 38, United States Code;

(C) the feasibility and desirability of modifying the provision of health-care benefits to survivors;

(D) the feasibility and desirability of modifying the provision of benefits to children survivors; and

(E) the feasibility and desirability of consolidating, expanding, or otherwise modifying any program relating to the provision of survivor benefits.



(4) The recommendations of the Comptroller General (including a proposal for legislation) on the most appropriate combination of survivor benefits to meet the current and anticipated financial, health-care, educational, and other needs of survivors.

(c) **SUBMISSION OF REPORT.**—The Comptroller General shall submit the report not later than April 1, 1994.

(d) **DEFINITIONS.**—In this section:

(1) The term “survivor”, in the case of a veteran or member of the Armed Forces who dies, means the surviving spouse or surviving dependent child of the veteran or member.

(2) The term “survivor benefit” means any monetary, health-care, educational, or other benefit paid, payable, or otherwise provided to survivors of veterans and survivors of members of the Armed Forces under the following:

(A) Laws administered by the Secretary of Veterans Affairs.

(B) Laws administered by the Secretary of Defense.

(C) The Social Security Act (42 U.S.C. 301 et seq.).

(3) The term “veteran” has the meaning given such term in section 101(2) of title 38, United States Code.

## **TITLE II—LIFE INSURANCE PROGRAMS**

### **SEC. 201. SERVICEMEN'S GROUP LIFE INSURANCE.**

Section 1967 is amended by adding at the end thereof the following:

“(e) In addition to the amounts of insurance otherwise provided under this section, an eligible member may, upon application, obtain increased coverage beyond that provided under this section in the amount of \$100,000, or any lesser amount evenly divisible by \$10,000.”.

### **SEC. 202. VETERANS' GROUP LIFE INSURANCE.**

Section 1977 is amended—

(1) in subsection (a)—

(A) by inserting “and (e)” after “1967(a)” and after “1967(b)”;

(B) by striking out “\$100,000” each place it appears and inserting in lieu thereof “\$200,000”;

(C) by striking out “sixty days” and inserting in lieu thereof “60 days”;

(D) by striking out “sixty-day period” and inserting in lieu thereof “60-day period”; and

(E) by striking out “of this section” after “subsection (e)”;

(2) in subsection (b)(2), by striking out “nonrenewable” and inserting in lieu thereof “renewable”; and

(3) in subsection (h)(2), by striking out “Notwithstanding subsection (b)(2) of this section” and inserting in lieu thereof “In accordance with subsection (b)”.

### **SEC. 203. SUPPLEMENTAL SERVICE DISABLED VETERANS' INSURANCE FOR TOTALLY DISABLED VETERANS.**

(a) **IN GENERAL.**—Subchapter I of chapter 19 is amended by inserting after section 1922 the following new section:

**“§ 1922A. Supplemental service disabled veterans’ insurance for totally disabled veterans**

“(a) Any person insured under section 1922(a) of this title who qualifies for a waiver of premiums under section 1912 of this title is eligible, as provided in this section, for supplemental insurance in an amount not to exceed \$20,000.

“(b) To qualify for supplemental insurance under this section a person must file with the Secretary an application for such insurance not later than the end of (1) the one-year period beginning on the first day of the first month following the month in which this section is enacted, or (2) the one-year period beginning on the date that the Department notifies the person that the person is entitled to a waiver of premiums under section 1912 of this title, whichever is later.

“(c) Supplemental insurance granted under this section shall be granted upon the same terms and conditions as insurance granted under section 1922(a) of this title, except that such insurance may not be granted to a person under this section unless the application is made for such insurance before the person attains 65 years of age.

“(d) No waiver of premiums shall be made in the case of any person for supplemental insurance granted under this section.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 19 is amended by inserting after the item relating to section 1922 the following new item:

“1922A. Supplemental service disabled veterans’ insurance for totally disabled veterans.”.

**SEC. 204. INCREASE IN AMOUNT OF VETERANS’ MORTGAGE LIFE INSURANCE.**

(a) INCREASE.—Section 2106(b) is amended in the first sentence—

(1) by striking out “initial”; and

(2) by striking out “\$40,000” and inserting in lieu thereof “\$90,000”.

(b) TECHNICAL AMENDMENT.—The item relating to section 2106 in the table of sections at the beginning of chapter 21 is amended to read as follows:

“2106. Veterans’ mortgage life insurance.”.

**SEC. 205. EFFECTIVE DATE.**

The amendments made by this title shall take effect on December 1, 1992.

38 USC 1922A  
note.

**TITLE III—EDUCATIONAL ASSISTANCE PROGRAMS****SEC. 301. INCREASE IN AMOUNT OF MONTGOMERY GI BILL BASIC EDUCATIONAL ASSISTANCE.**

(a) AMOUNT OF BENEFIT PAYMENTS UNDER CHAPTER 30.—Section 3015 is amended—

(1) in subsection (a)(1), by striking out “\$300” and inserting in lieu thereof “\$400”; and

(2) in subsection (b)(1), by striking out “\$250” and inserting in lieu thereof “\$325”.

(b) AMOUNT OF BENEFIT PAYMENTS UNDER SELECTED RESERVE PROGRAM.—Section 2131(b)(1) of title 10, United States Code, is amended—

(1) in subparagraph (A), by striking out “\$140” and inserting in lieu thereof “\$190”;

(2) in subparagraph (B), by striking out “\$105” and inserting in lieu thereof “\$143”; and

(3) in subparagraph (C), by striking out “\$70” and inserting in lieu thereof “\$95”.

(c) CONFORMING AMENDMENTS TO CHAPTER 30.—Section 3015(f) is amended—

(1) by striking out paragraph (1);

(2) by redesignating paragraph (2) as paragraph (1) and in that paragraph striking out “may continue to pay” and all that follows through “such rates” and inserting in lieu thereof “shall provide a percentage increase in the monthly rates payable under subsections (a)(1) and (b)(1) of this section”; and

(3) by redesignating paragraph (3) as paragraph (2) and in that paragraph striking out “may” both places it appears and inserting in lieu thereof “shall”.

(d) CONFORMING AMENDMENTS TO SELECTED RESERVE PROGRAM.—Section 2131(b)(2) of title 10, United States Code, is amended—

(1) by striking out subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (A) and in that subparagraph striking out “may continue to pay” and all that follows through “such rates” and inserting in lieu thereof “shall provide a percentage increase in the monthly rates payable under subparagraphs (A), (B), and (C) of paragraph (1)”; and

(3) by redesignating subparagraph (C) as subparagraph (B) and in that subparagraph striking out “may” both places it appears and inserting in lieu thereof “shall”.

(e) EFFECTIVE DATE AND RULE OF CONSTRUCTION.—(1) The amendments made by this section shall take effect on April 1, 1993.

(2) The amendments made by this section shall not be construed to change the account from which payment is made for that portion of a payment under chapter 30 of title 38, United States Code, or chapter 106 of title 10, United States Code, which is a Montgomery GI bill rate increase and a title III benefit is paid. For the purposes of this subsection, the terms “Montgomery GI bill rate increase” and “title III benefit” have the meanings provided in section 393 of the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991 (105 Stat. 99).

#### SEC. 302. MONTGOMERY GI BILL ENTITLEMENT DATES.

(a) CHANGE IN DATES.—Chapter 30 is amended—

(1) in section 3011(a)(1)(B), by striking out “on October 19, 1984,” and all that follows through “and—” and inserting in lieu thereof “at any time during the period beginning on October 19, 1984, and ending on July 1, 1985, continued on active duty without a break in service and—”;

(2) in section 3012(a)(1)(B), by striking out “on October 19, 1984,” and all that follows through “and—” and inserting in lieu thereof “at any time during the period beginning on

October 19, 1984, and ending on July 1, 1985, continued on active duty without a break in service and—"; and

(3) in section 3031(e), by striking out "October 18, 1984" and inserting in lieu thereof "June 30, 1985".

(b) **EFFECTIVE DATE.**—The amendments made by this section shall take effect as of October 28, 1986.

38 USC 3011  
note.

**SEC. 303. EXTENSION OF PERIOD FOR COMPLETING REQUIREMENTS FOR SECONDARY SCHOOL DIPLOMA.**

(a) **IN GENERAL.**—(1) Section 3011 is amended—

(A) in subsection (a)(2), by inserting "except as provided in subsection (e) of this section," after "who"; and

(B) by adding at the end thereof the following new subsection:

"(e) For the purposes of subsection (a)(2) of this section, an individual who was on active duty on August 2, 1990, and who completes the requirements of a secondary school diploma (or equivalency certificate) before the end of the 24-month period beginning on the date of the enactment of this subsection shall be considered to have completed such requirements within the individual's initial obligated period of active duty."

(2) Section 3012 is amended—

(A) in subsection (a)(2), by inserting "except as provided in subsection (f) of this section," after "who"; and

(B) by adding at the end thereof the following new subsection:

"(f) For the purposes of subsection (a)(2) of this section, an individual who was on active duty on August 2, 1990, and who completes the requirements of a secondary school diploma (or equivalency certificate) before the end of the 24-month period beginning on the date of the enactment of this subsection shall be considered to have completed such requirements within the individual's initial obligated period of active duty."

(b) **NOTIFICATION REQUIREMENT.**—Not later than 60 days after the date of enactment of this Act, the Secretary of each of the military departments shall notify each individual who was on active duty in the Armed Forces on August 2, 1990, and who has not met the requirements of a secondary school diploma (or equivalency certificate), of the extension of the period for the completion of such requirements afforded by the amendments made by this section.

38 USC 3011  
note.

**SEC. 304. TREATMENT OF CERTAIN ACTIVE-DUTY SERVICE TOWARD ELIGIBILITY FOR EDUCATIONAL ASSISTANCE.**

(a) **TREATMENT OF SERVICE.**—Section 3011 (as amended by section 303) is further amended by adding at the end the following new subsection:

"(f)(1) For the purposes of this chapter, a member referred to in paragraph (2) of this subsection who serves the periods of active duty referred to in that paragraph shall be deemed to have served a continuous period of active duty whose length is the aggregate length of the periods of active duty referred to in that paragraph.

"(2) This subsection applies to a member who—

"(A) after a period of continuous active duty of not more than 12 months, is discharged or released from active duty under subclause (I) or (III) of subsection (a)(1)(A)(ii) of this section; and

38 USC 3011  
note.

“(B) after such discharge or release, reenlists or re-enters on a period of active duty.”.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall take effect as if enacted on June 30, 1985, and apply to the payment of educational assistance for education or training pursued on or after October 1, 1993.

**SEC. 305. TREATMENT OF CERTAIN ASSIGNMENTS OF INDIVIDUALS FOR PURPOSES OF ELIGIBILITY UNDER MONTGOMERY GI BILL PROGRAM.**

(a) **TREATMENT.**—Section 3011 (as amended by sections 303 and 304) is further amended by adding at the end the following new subsection:

“(g) Notwithstanding section 3002(6)(A) of this title, a period during which an individual is assigned full time by the Armed Forces to a civilian institution for a course of education as described in such section 3002(6)(A) shall not be considered a break in service or a break in a continuous period of active duty of the individual for the purposes of this chapter.”.

38 USC 3011  
note.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect as if enacted on October 19, 1984.

**SEC. 306. TREATMENT OF PURSUIT OF EDUCATION AT SERVICE ACADEMIES AND CERTAIN EDUCATIONAL INSTITUTIONS FOR PURPOSES OF ELIGIBILITY UNDER MONTGOMERY GI BILL PROGRAM.**

(a) **ACTIVE DUTY.**—Section 3011 (as amended by sections 303, 304, and 305) is further amended by adding at the end the following new subsection:

“(h)(1) Notwithstanding section 3002(6)(B) of this title, a member referred to in paragraph (2) of this subsection who serves the periods of active duty referred to in subparagraphs (A) and (C) of that paragraph shall be deemed to have served a continuous period of active duty whose length is the aggregate length of the periods of active duty referred to in such subparagraphs.

“(2) This subsection applies to a member who—

“(A) during an initial period of active duty, commences pursuit of a course of education—

“(i) at a service academy; or

“(ii) at a post-secondary school for the purpose of preparation for enrollment at a service academy;

“(B) fails to complete the course of education; and

“(C) re-enters on a period of active duty.”.

38 USC 3011  
note.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect as if enacted on June 30, 1985, and apply to the payment of educational assistance for education or training pursued on or after October 1, 1993.

**SEC. 307. EDUCATIONAL ASSISTANCE FOR CERTAIN PERSONS WHOSE INITIAL PERIOD OF OBLIGATED SERVICE WAS LESS THAN THREE YEARS.**

(a) **EDUCATIONAL ASSISTANCE.**—Section 3015 (as amended by section 301) is amended—

(1) by redesignating subsections (c), (d), (e), and (f) as subsections (d), (e), (f), and (g), respectively;

(2) in subsection (d) (as so redesignated), by striking out “(a) and (b)” and inserting in lieu thereof “(a), (b), and (c)”; and

(3) by inserting after subsection (b) the following new subsection (c):

“(c)(1) The amount of basic educational allowance payable under this chapter to an individual referred to in paragraph (2) of this subsection is the amount determined under subsection (a) of this section.

“(2) Paragraph (1) of this subsection applies to an individual entitled to an educational assistance allowance under section 3011 of this title—

“(A) whose initial obligated period of active duty is less than three years;

“(B) who, beginning on the date of the commencement of the person’s initial obligated period of such duty, serves a continuous period of active duty of not less than three years; and

“(C) who, after the completion of that continuous period of active duty, meets one of the conditions set forth in subsection (a)(3) of such section 3011.”

(b) CONFORMING AMENDMENTS.—Such section 3015 (as so amended) is further amended—

(1) in subsection (a), by striking out “and (f)” and inserting in lieu thereof “(f), and (g)”; and

(2) in subsection (b), by striking out “and (f)” and inserting in lieu thereof “(f), and (g)”.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect as if enacted on June 30, 1985, and apply to the payment of educational assistance for education or training pursued on or after September 1, 1993.

38 USC 3015  
note.

#### SEC. 308. DEATH BENEFIT.

Section 3017(a)(1)(B) is amended by inserting before the comma “or within one year after discharge or release from active duty”.

#### SEC. 309. CLARIFICATION OF OPPORTUNITY TO WITHDRAW ELECTION NOT TO ENROLL IN MONTGOMERY GI BILL PROGRAM.

(a) CLARIFICATION.—Section 3018(b)(3)(B) is amended—

(1) by striking out “or (iii)” and inserting in lieu thereof “(iii)”; and

(2) by adding before the semicolon at the end the following: “, or (iv) a physical or mental condition that was not characterized as a disability and did not result from the individual’s own willful misconduct but did interfere with the individual’s performance of duty, as determined by the Secretary of each military department in accordance with regulations prescribed by the Secretary of Defense (or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service of the Navy)”.

Regulations.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if enacted on December 1, 1988.

38 USC 3018  
note.

#### SEC. 310. USE OF EDUCATIONAL ASSISTANCE FOR SOLO FLIGHT TRAINING.

(a) ACTIVE-DUTY PROGRAM.—Section 3032(f) is amended—

(1) in paragraph (1), by striking out “(other than tuition and fees charged for or attributable to solo flying hours)”; and

(2) by adding at the end the following new paragraph (4):

"(4) The number of solo flying hours for which an individual may be paid an educational assistance allowance under this subsection may not exceed the minimum number of solo flying hours required by the Federal Aviation Administration for the flight rating or certification which is the goal of the individual's flight training."

(b) SELECTED RESERVE PROGRAM.—Section 2131(g) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking out "(other than tuition and fees charged for or attributable to solo flying hours)"; and

(2) by adding at the end the following new paragraph (4):

"(4) The number of solo flying hours for which an individual may be paid an educational assistance allowance under this subsection may not exceed the minimum number of solo flying hours required by the Federal Aviation Administration for the flight rating or certification which is the goal of the individual's flight training."

(c) POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE PROGRAM.—Section 3231(f) is amended—

(1) in paragraph (1), by striking out "(other than tuition and fees charged for or attributable to solo flying hours)"; and

(2) by adding at the end the following new paragraph (4):

"(4) The number of solo flying hours for which an individual may be paid an educational assistance allowance under this subsection may not exceed the minimum number of solo flying hours required by the Federal Aviation Administration for the flight rating or certification which is the goal of the individual's flight training."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to flight training received under chapters 30 and 32 of title 38, United States Code, and chapter 106 of title 10, United States Code, after September 30, 1992.

10 USC 2131  
note.

#### SEC. 311. LIMITATION ON AMOUNT OF ADVANCE PAYMENT OF WORK-STUDY ALLOWANCE.

Section 3485(a)(1) is amended in the third sentence—

(1) by striking out "40 per centum" and inserting in lieu thereof "40 percent"; and

(2) by inserting "(but not more than an amount equal to 50 times the applicable hourly minimum wage)" before the period at the end.

#### SEC. 312. REVISION OF REQUIREMENTS RELATING TO APPROVAL OF ACCREDITED COURSES.

(a) REVISION OF REQUIREMENTS.—Subsection (a) of section 3675 is amended—

(1) by striking out "(a)" and inserting in lieu thereof "(a)(1)";

(2) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively; and

(3) by striking out the matter below subparagraph (C) (as so redesignated) and inserting in lieu thereof the following new paragraphs:

"(2)(A) For the purposes of this chapter, the Secretary of Education shall publish a list of nationally recognized accrediting agencies and associations which that Secretary determines to be reliable authority as to the quality of training offered by an educational institution.

Printing.

"(B) A State approving agency may utilize the accreditation of any accrediting association or agency listed pursuant to subparagraph (A) of this paragraph for approval of courses specifically accredited and approved by such accrediting association or agency.

"(3)(A) An educational institution shall submit an application for approval of courses to the appropriate State approving agency. In making application for approval, the institution (other than an elementary school or secondary school) shall transmit to the State approving agency copies of its catalog or bulletin which must be certified as true and correct in content and policy by an authorized representative of the institution.

"(B) Each catalog or bulletin transmitted by an institution under subparagraph (A) of this paragraph shall—

"(i) state with specificity the requirements of the institution with respect to graduation;

"(ii) include the information required under paragraphs (6) and (7) of section 3676(b) of this title; and

"(iii) include any attendance standards of the institution, if the institution has and enforces such standards."

(b) APPROVAL OF NURSES AIDE COURSES.—Subsection (a)(1) of such section (as amended by subsection (a)) is further amended—

(1) in subparagraph (B), by striking out "sections 11-28 of title 20; or" and inserting in lieu thereof "the Act of February 23, 1917 (20 U.S.C. 11 et seq.);";

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; or"; and

(3) by adding at the end the following new subparagraph (D):

"(D) such courses are approved by the State as meeting the requirement of regulations prescribed by the Secretary of Health and Human Services under sections 1819(f)(2)(A)(i) and 1919(f)(2)(A)(i) of the Social Security Act (42 U.S.C. 1395i-3(f)(2)(A)(i) and 1396r(f)(2)(A)(i))."

#### SEC. 313. DISAPPROVAL OF NONACCREDITED INDEPENDENT STUDY.

(a) DISAPPROVAL.—(1) Section 3676 is amended by adding at the end the following new subsection:

"(e) Notwithstanding any other provision of this title, a course of education shall not be approved under this section if it is to be pursued in whole or in part by independent study."

(2) Subchapter I of chapter 36 is amended by inserting after section 3680 the following new section:

#### "§ 3680A. Disapproval of enrollment in certain courses

"(a) The Secretary shall not approve the enrollment of an eligible veteran in—

"(1) any bartending course or personality development course;

"(2) any sales or sales management course which does not provide specialized training within a specific vocational field;

"(3) any type of course which the Secretary finds to be avocational or recreational in character (or the advertising for which the Secretary finds contains significant avocational or recreational themes) unless the veteran submits justification showing that the course will be of bona fide use in the pursuit



of the veteran's present or contemplated business or occupation;  
or

"(4) any independent study program except an accredited independent study program leading to a standard college degree.

"(b) Except to the extent otherwise specifically provided in this title or chapter 106 of title 10, the Secretary shall not approve the enrollment of an eligible veteran in any course of flight training other than one given by an educational institution of higher learning for credit toward a standard college degree the eligible veteran is seeking.

"(c) The Secretary shall not approve the enrollment of an eligible veteran in any course to be pursued by radio or by open circuit television, except that the Secretary may approve the enrollment of an eligible veteran in a course, to be pursued in residence, leading to a standard college degree which includes, as an integral part thereof, subjects offered through open circuit television.

"(d)(1) Except as provided in paragraph (2) of this subsection, the Secretary shall not approve the enrollment of any eligible veteran, not already enrolled, in any course for any period during which the Secretary finds that more than 85 percent of the students enrolled in the course are having all or part of their tuition, fees, or other charges paid to or for them by the educational institution or by the Department of Veterans Affairs under this title or under chapter 106 of title 10. The Secretary may waive the requirements of this subsection, in whole or in part, if the Secretary determines, pursuant to regulations which the Secretary shall prescribe, it to be in the interest of the eligible veteran and the Federal Government. The provisions of this subsection shall not apply to any course offered by an educational institution if the total number of veterans and persons receiving assistance under this chapter or chapter 30, 31, 32, or 35 of this title or under chapter 106 of title 10 who are enrolled in such institution equals 35 percent or less, or such other percent as the Secretary prescribes in regulations, of the total student enrollment at such institution (computed separately for the main campus and any branch or extension of such institution), except that the Secretary may apply the provisions of this subsection with respect to any course in which the Secretary has reason to believe that the enrollment of such veterans and persons may be in excess of 85 percent of the total student enrollment in such course.

"(2) Paragraph (1) of this subsection does not apply with respect to the enrollment of a veteran—

"(A) in a course offered pursuant to section 3019, 3034(a)(3), 3234, or 3241(a)(2) of this title;

"(B) in a farm cooperative training course; or

"(C) in a course described in section 3689(b)(6) of this title."

(3)(A) Chapter 34 is amended by repealing section 3473.

(B) The table of sections at the beginning of chapter 34 is amended by striking out the item relating to section 3473.

(4) Section 3034 is amended—

(A) in subsection (a)(1), by striking out "3473," and

(B) in subsection (d)(1), by striking out "3473(b)" and inserting in lieu thereof "3680A(b)".

(5) Section 3241 is amended—

(A) by striking out "3473," both places it appears; and

(B) in subsection (b)(1), by striking out “3473(b)” and inserting in lieu thereof “3680A(b)”.

(6) Section 2136(c)(1) of title 10, United States Code, is amended by striking out “1673(b)” and inserting in lieu thereof “3680A(b)”.

(7) Section 3523(a)(4) is amended by striking out “one” and all that follows and inserting in lieu thereof “an accredited independent study program leading to a standard college degree.”.

(8) The table of sections at the beginning of chapter 36 is amended by inserting after the item relating to section 3680 the following new item:

“3680A. Disapproval of enrollment in certain courses.”.

(b) SAVINGS PROVISION.—The amendments made by paragraphs (2) through (6) of subsection (a) of this section shall not apply to any person receiving educational assistance for pursuit of an independent study program in which the person was enrolled on the date of enactment of this section for as long as such person is continuously thereafter so enrolled and meets the requirements of eligibility for such assistance for the pursuit of such program under title 38, United States Code, or title 10, United States Code, in effect on that date.

10 USC 2136  
note.

**SEC. 314. TREATMENT OF ADVANCE PAYMENTS OF CERTAIN ASSISTANCE TO VETERANS WHO DIE.**

(a) TREATMENT.—Section 3680(e) is amended—

(1) by striking out “(e) If” and inserting in lieu thereof “(e)(1) Subject to paragraph (2), if”; and

(2) by adding at the end the following new paragraph:  
“(2) Paragraph (1) shall not apply to the recovery of an overpayment of an educational allowance or subsistence allowance advance payment to an eligible veteran or eligible person who fails to enroll in or pursue a course of education for which the payment is made if such failure is due to the death of the veteran or person.”.

(b) TECHNICAL AMENDMENT.—Section 3680(e)(1) (as amended by subsection (a)) is further amended by striking out “eligible person,” and inserting in lieu thereof “eligible person”.

**SEC. 315. BAR OF ASSISTANCE FOR PERSONS WHOSE EDUCATION IS PAID FOR AS FEDERAL EMPLOYEE TRAINING.**

Section 3681(a) is amended by striking out “and whose full salary is being paid to such person while so training”.

**SEC. 316. REVISION IN MEASUREMENT OF COURSES.**

(a) IN GENERAL.—Section 3688 is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking out “thirty hours” and all that follows through “full time” and inserting in lieu thereof “22 hours per week of attendance (excluding supervised study) is required, with no more than 2½ hours of rest periods per week allowed”;

(B) in paragraph (2), by striking out “twenty-five hours” and all that follows through “full time” and inserting in lieu thereof “18 hours per week net of instruction (excluding supervised study but which may include customary intervals not to exceed 10 minutes between hours of instruction) is required”;

(C) in paragraph (4)—

(i) by striking out “in residence”; and

(ii) by inserting “, other than a course pursued as part of a program of education beyond the baccalaureate level,” after “semester-hour basis”;

(D) in paragraph (6), by striking out “3491(a)(2)” and inserting in lieu thereof “3034(a)(3), 3241(a)(2) or 3533(a)”;

and  
(E) by striking out paragraph (7) and all that follows to the end of the subsection and inserting in lieu thereof the following:

“(7) an institutional course not leading to a standard college degree offered by an educational institution on a standard quarter- or semester-hour basis shall be measured as full time on the same basis as provided in paragraph (4) of this subsection, but if the educational institution offering the course is not an institution of higher learning, then in no event shall such course be considered full time when it requires less than the minimum weekly hours of attendance required for full time by paragraph (1) or (2) of this subsection, as appropriate.”;

(2) in subsection (b), by striking out “34” and inserting in lieu thereof “30, 32.”; and

(3) by striking out subsections (c), (d), and (e).

(b) INDEPENDENT STUDY.—Section 3532(c) is amended by striking out paragraphs (3) and (4).

(c) EFFECTIVE DATE.—The amendments made by this section apply to enrollments in courses beginning on or after July 1, 1993.

**SEC. 317. CLARIFICATION OF PERMITTED CHANGES IN PROGRAMS OF EDUCATION.**

Subsection (d) of section 3691 is amended to read as follows:

“(d) For the purposes of this section, the term ‘change of program of education’ shall not be deemed to include a change by a veteran or eligible person from the pursuit of one program to the pursuit of another program if—

“(1) the veteran or eligible person has successfully completed the former program;

“(2) the program leads to a vocational, educational, or professional objective in the same general field as the former program;

“(3) the former program is a prerequisite to, or generally required for, pursuit of the subsequent program; or

“(4) in the case of a change from the pursuit of a subsequent program to the pursuit of a former program, the veteran or eligible person resumes pursuit of the former program without loss of credit or standing in the former program.”.

**SEC. 318. AUTHORITY OF MEMBERS OF SELECTED RESERVE TO RECEIVE TUTORIAL ASSISTANCE.**

Section 2131 of title 10, United States Code, is amended by adding at the end the following new subsection:

“(h)(1)(A) Subject to subparagraph (B), the Secretary of Veterans Affairs shall approve individualized tutorial assistance for any person entitled to educational assistance under this chapter who—

“(i) is enrolled in and pursuing a postsecondary course of education on a half-time or more basis at an educational institution; and

“(ii) has a deficiency in a subject required as a part of, or which is prerequisite to, or which is indispensable to the satisfactory pursuit of, the program of education.

“(B) The Secretary of Veterans Affairs shall not approve individualized tutorial assistance for a person pursuing a program of education under this paragraph unless such assistance is necessary for the person to successfully complete the program of education.

“(2)(A) Subject to subparagraph (B), the Secretary concerned, through the Secretary of Veterans Affairs, shall pay to a person receiving individualized tutorial assistance pursuant to paragraph (1) a tutorial assistance allowance. The amount of the allowance payable under this paragraph may not exceed \$100 for any month, nor aggregate more than \$1,200. The amount of the allowance paid under this paragraph shall be in addition to the amount of educational assistance allowance payable to a person under this chapter.

“(B) A tutorial assistance allowance may not be paid to a person under this paragraph until the educational institution at which the person is enrolled certifies that—

“(i) the individualized tutorial assistance is essential to correct a deficiency of the person in a subject required as a part of, or which is prerequisite to, or which is indispensable to the satisfactory pursuit of, an approved program of education;

“(ii) the tutor chosen to perform such assistance is qualified to provide such assistance and is not the person’s parent, spouse, child (whether or not married or over eighteen years of age), brother, or sister; and

“(iii) the charges for such assistance do not exceed the customary charges for such tutorial assistance.

“(3)(A) A person’s period of entitlement to educational assistance under this chapter shall be charged only with respect to the amount of tutorial assistance paid to the person under this subsection in excess of \$600.

“(B) A person’s period of entitlement to educational assistance under this chapter shall be charged at the rate of one month for each amount of assistance paid to the individual under this section in excess of \$600 that is equal to the amount of the monthly educational assistance allowance which the person is otherwise eligible to receive for full-time pursuit of an institutional course under this chapter.”

**SEC. 319. REQUIREMENT OF ATTENDANCE CERTIFICATION IN APPRENTICESHIP PROGRAM UNDER THE MONTGOMERY GI BILL SELECTED RESERVE PROGRAM.**

Section 2136(b) of title 10, United States Code, is amended by striking out “1780(c).”

**SEC. 320. TECHNICAL AMENDMENTS.**

(a) TITLE 10.—Chapter 106 of title 10, United States Code, is amended—

(1) in section 2131(c)—

(A) by striking out “section 1795 of title 38” in paragraph (2) and inserting in lieu thereof “section 3695 of title 38”;

(B) by striking out “of this subparagraph, his or her” in paragraph (3)(B)(ii) and inserting in lieu thereof “, the individual’s”; and

(C) by striking out “of this paragraph.” in paragraph (3)(C) and inserting in lieu thereof a period;

(2) in section 2133(b)—

(A) by striking out “section 1431(f) of title 38” in paragraph (2) and inserting in lieu thereof “section 3031(f) of title 38”; and

(B) by striking out “section 1431(d) of title 38” in paragraph (3) and inserting in lieu thereof “section 3031(d) of title 38”; and

(3) in section 2136 (as amended by section 319 of this Act), by striking out “sections 1670” in subsection (b) and all that follows through “1792)” and inserting in lieu thereof “sections 3470, 3471, 3474, 3476, 3482(g), 3483, and 3485 of title 38 and the provisions of subchapters I and II of chapter 36 of such title (with the exception of sections 3686(a), 3687, and 3692)”.

## TITLE IV—VOCATIONAL REHABILITATION AND PENSION PROGRAMS

### SEC. 401. PERMANENT AUTHORITY FOR PROGRAM OF VOCATIONAL REHABILITATION FOR CERTAIN SERVICE-DISABLED VETERANS.

(a) PROGRAM MADE PERMANENT.—(1) Subsection (a)(1) of section 1163 is amended by striking out “during the program period” and inserting in lieu thereof “after January 31, 1985,”.

(2) Subsection (a)(2) of such section is amended to read as follows:

“(2) For purposes of this section, the term ‘qualified veteran’ means a veteran who has a service-connected disability, or service-connected disabilities, not rated as total but who has been awarded a rating of total disability by reason of inability to secure or follow a substantially gainful occupation as a result of such disability or disabilities.”.

(b) COUNSELING SERVICES.—Subsection (b) of such section is amended by striking out “During the program period, the Secretary” and inserting in lieu thereof “The Secretary”.

(c) NOTICE.—Subsection (c)(1) of such section is amended by striking out “during the program period” and all that follows through “(a)(2)(A)” and inserting in lieu thereof “after January 31, 1985, of a rating of total disability described in subsection (a)(2)”.

(d) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

**“§ 1163. Trial work periods and vocational rehabilitation for certain veterans with total disability ratings”.**

(2) The item relating to such section in the table of sections at the beginning of chapter 11 is amended to read as follows:

**“1163. Trial work periods and vocational rehabilitation for certain veterans with total disability ratings.”.**

**EXTENSION OF PROGRAM OF VOCATIONAL TRAINING FOR CERTAIN PENSION RECIPIENTS.**

**EXTENSION OF PROGRAM.**—Subsection (a)(1) of section 1524 to read as follows:

In the case of a veteran under age 45 who is awarded during the program period, the Secretary shall, based on file with the Department of Veterans Affairs, make a preliminary finding whether such veteran, with the assistance of vocational training program under this section, has a potential for achieving employment. If such potential is found, the Secretary shall solicit from the veteran an application for such training under this section. If the veteran thereafter receives such training, the Secretary shall provide the veteran an evaluation, which may include a personal interview, to determine whether the achievement of a vocational goal is reasonable."

**PROGRAM EXTENSION.**—Section 1524(a) is further

amended by striking out paragraph (3); and

by redesignating paragraph (4) as paragraph (3) and paragraph striking out "December 31, 1992" and inserting in lieu thereof "December 31, 1995".

**NOTIFYING AMENDMENTS.**—(1) Section 1524(b)(4) is amended by striking out "January 31, 1992" and inserting in lieu thereof "January 31, 1995".

The heading of such section is amended to read as

**"Vocational training for certain pension recipients".**

The item relating to such section in the table of sections governing chapter 15 is amended to read as follows:

"Vocational training for certain pension recipients."

**PERMANENT AUTHORITY FOR PROTECTION OF HEALTH CARE ELIGIBILITY FOR CERTAIN PENSION RECIPIENTS.**

**PERMANENT PROTECTION.**—Section 1525 is amended—

in subsection (a), by striking out "during the program period" and inserting in lieu thereof "after January 31, 1985,";

by striking out subsection (b) and inserting in lieu thereof the following:

"For the purposes of this section, the term 'terminated by reason of work or training' means terminated as a result of a veteran's receipt of earnings from activity performed for or with gain, but only if the veteran's annual income from other than such earnings would, taken alone, not result in termination of the veteran's pension."

**LOCAL AMENDMENTS.**—(1) The heading of such section is amended to read as follows:

**"§ 1525. Protection of health-care eligibility".**

(2) The item relating to such section in the table of sections at the beginning of chapter 15 is amended to read as follows:

"1525. Protection of health-care eligibility."

**SEC. 404. VOCATIONAL REHABILITATION FOR CERTAIN SERVICE-DISABLED VETERANS WITH SERIOUS EMPLOYMENT HANDICAPS.**

(a) VOCATIONAL REHABILITATION.—Section 3102 is amended to read as follows:

**"§ 3102. Basic entitlement**

"A person shall be entitled to a rehabilitation program under the terms and conditions of this chapter if—

"(1) the person—

"(A) is—

"(i) a veteran who has a service-connected disability which is, or but for the receipt of retired pay would be, compensable at a rate of 20 percent or more under chapter 11 of this title and which was incurred or aggravated in service on or after September 16, 1940; or

"(ii) hospitalized or receiving outpatient medical care, services, or treatment for a service-connected disability pending discharge from the active military, naval, or air service, and the Secretary determines that—

"(I) the hospital (or other medical facility) providing the hospitalization, care, services, or treatment is doing so under contract or agreement with the Secretary concerned, or is under the jurisdiction of the Secretary of Veterans Affairs or the Secretary concerned; and

"(II) the person is suffering from a disability which will likely be compensable at a rate of 20 percent or more under chapter 11 of this title; and

"(B) is determined by the Secretary to be in need of rehabilitation because of an employment handicap; or

"(2) the person is a veteran who—

"(A) has a service-connected disability which is, or but for the receipt of retired pay would be, compensable at a rate of 10 percent under chapter 11 of this title and which was incurred or aggravated in service on or after September 16, 1940; and

"(B) has a serious employment handicap."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1993.

**SEC. 405. INCREASE IN SUBSISTENCE ALLOWANCE FOR VETERANS PARTICIPATING IN A REHABILITATION PROGRAM.**

(a) INCREASE.—Section 3108(b) is amended by striking out the table at the end and inserting in lieu thereof the following new table:

Column I	Column II	Column III	Column IV	Column V
Type of program	No dependents	One dependent	Two dependents	More than two dependents
Institutional training:				The amount in column IV, plus the following for each dependent in excess of two:
Full-time ..	\$366	\$454	\$535	\$39
Three-quarter-time	275	341	400	30
Half-time ..	184	228	268	20
Farm cooperative, apprentice, or other on-job training:				
Full-time ..	320	387	446	29
Extended evaluation:				
Full-time ..	366	454	535	39
Independent living training:				
Full-time ..	366	454	535	39
Three-quarter-time	275	341	400	30
Half-time ..	184	228	268	20".

(b) **COST-OF-LIVING INCREASE.**—Such section is further amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end the following new paragraphs:

"(2) With respect to the fiscal year beginning on October 1, 1994, the Secretary shall provide a percentage increase in the monthly rates payable under paragraph (1) of this subsection equal to the percentage by which the Consumer Price Index (all items, United States city average published by the Bureau of Labor Statistics) for the 12-month period ending June 30, 1994, exceeds such Consumer Price Index for the 12-month period ending June 30, 1993.

"(3) With respect to any fiscal year beginning on or after October 1, 1995, the Secretary shall continue to pay, in lieu of the rates payable under paragraph (1) of this subsection, the monthly rates payable under this subsection for the previous fiscal year and shall provide, for any such fiscal year, a percentage increase in such rates equal to the percentage by which—

"(A) the Consumer Price Index (all items, United States city average) for the 12-month period ending on June 30 preceding the beginning of the fiscal year for which the increase is made, exceeds

"(B) such Consumer Price Index for the 12-month period preceding the 12-month period described in subparagraph (A)."

(c) **EFFECTIVE DATE.**—The amendments made by subsections (a) and (b) shall take effect on October 1, 1993.

38 USC 3108  
note.



## **TITLE V—JOB COUNSELING, TRAINING, AND PLACEMENT SERVICES FOR VET- ERANS**

### **SEC. 501. IMPROVEMENT OF DISABLED VETERANS' OUTREACH PROGRAM.**

Section 4103A(a)(1) is amended in the first sentence by striking out "specialist for each 5,300 veterans" and all that follows through the end of the sentence and inserting in lieu thereof "specialist for each 6,900 veterans residing in such State who are either veterans of the Vietnam era, veterans who first entered on active duty as a member of the Armed Forces after May 7, 1975, or disabled veterans."

### **SEC. 502. REPEAL OF DELIMITING DATE RELATING TO TREATMENT OF VETERANS OF THE VIETNAM ERA FOR DISABLED VETERANS' OUTREACH PROGRAM PURPOSES.**

Section 4211(2) is amended—

(1) in subparagraph (A), by striking out "(A) Subject to subparagraph (B) of this paragraph, the term" and inserting in lieu thereof "The term"; and

(2) by striking out subparagraph (B).

### **SEC. 503. DISABLED VETERANS' OUTREACH PROGRAM PRIORITIES.**

Subparagraph (A) of section 4103A(b)(1) is amended to read as follows:

"(A) Services to special disabled veterans."

### **SEC. 504. REPEAL OF REQUIREMENT THAT TO BE REPRESENTED ON ADVISORY COMMITTEE ON VETERANS EMPLOYMENT AND TRAINING A VETERANS ORGANIZATION MUST HAVE A FEDERAL CHARTER.**

Section 4110(c)(1)(A) is amended by striking out "are chartered by Federal law and".

### **SEC. 505. EXPANSION AND EXTENSION OF VETERANS READJUSTMENT APPOINTMENTS WITH THE FEDERAL GOVERNMENT.**

(a) EXPANSION TO INCLUDE ALL VIETNAM ERA VETERANS.—

Section 4214(b)(2)(A) is amended to read as follows:

"(A) a veteran of the Vietnam era; and"

(b) EXTENSION WITH FEDERAL GOVERNMENT.—Section 4214(b)(3) of title 38, United States Code, is amended—

(1) in subparagraph (A)(ii), by striking out "December 31, 1993" and inserting in lieu thereof "December 31, 1995"; and

(2) in subparagraph (B)(ii), by striking out "December 18" and inserting in lieu thereof "December 31".

### **SEC. 506. REDESIGNATION OF SECTIONS OF CHAPTER 43.**

(a) REDESIGNATION OF SECTIONS TO CONFORM TO CHAPTER NUMBER.—Sections 2021, 2022, 2023, 2024, 2025, 2026, and 2027 are redesignated as sections 4301, 4302, 4303, 4304, 4305, 4306, and 4307, respectively.

(b) TABLES OF SECTIONS.—The table of sections at the beginning of chapter 43 is revised so as to conform the section reference in the table to the redesignations made by subsection (a).

(c) CROSS REFERENCES.—(1) Section 4322 (as redesignated by subsection (a)) is amended—

(A) by striking out “2021(a)” and inserting in lieu thereof “4321(a)”; and

(B) by striking out “2024” and inserting in lieu thereof “4324”.

(2) Section 4323 (as redesignated by subsection (a)) is amended by striking out “2021(a)” each place it appears and inserting in lieu thereof “4321(a)”.

(3) Section 4324 (as redesignated by subsection (a)) is amended by striking out “2021(a)” each place it appears and inserting in lieu thereof “4321(a)”.

(4) Section 1204(a)(1) of title 5, United States Code, is amended by striking out “2023” and inserting in lieu thereof “4323”.

(5) Section 706(c) of title 10, United States Code, is amended by striking out “2021” and inserting in lieu thereof “4321”.

(6) Any reference in a provision of law to a section redesignated by subsection (a), other than a provision specified in paragraphs (1) through (5) of this subsection, shall be deemed to refer to the section as so redesignated.

38 USC 4301  
note.

(d) COORDINATION WITH OTHER ACT.—If the Uniformed Services Employment and Reemployment Rights Act of 1992 is enacted before this Act, this section, including the amendments made by this section, shall not take effect. If the Uniformed Services Employment and Reemployment Rights Act of 1992 is enacted after this Act, this section, and the amendments made by this section, shall be treated for all purposes as not having been enacted, and the provisions of title 38, United States Code, shall read as if those amendments had not been made.

## TITLE VI—OTHER VETERANS' PROGRAMS

### SEC. 601. EXTENSION OF LIMITATION ON PENSION FOR VETERANS RECEIVING MEDICAID-COVERED NURSING HOME CARE; APPLICABILITY TO SURVIVING SPOUSES; AND FACILITY EXPENSES.

(a) REDUCTION IN PENSION.—Section 5503(f) is amended—

(1) by redesignating paragraphs (5) and (6) as paragraph (6) and (7), respectively; and

(2) by inserting after paragraph (4) the following new paragraph (5):

“(5) The provisions of this subsection shall apply with respect to a surviving spouse having no child in the same manner as they apply to a veteran having neither spouse nor child.”.

(b) EXTENSION.—Such section is further amended by striking out “September 30, 1992” in paragraph (7) (as redesignated by subsection (a)(1)) and inserting in lieu thereof “September 30, 1997”.

(c) FACILITY EXPENSES.—Section 5503(a)(1)(B) is amended by adding at the end thereof the following: “Effective through September 30, 1997, any amount in excess of \$90 per month to which the veteran would be entitled but for the application of the preceding sentence shall be deposited in a revolving fund at the Department medical facility which furnished the veteran nursing care, and such amount shall be available for obligation without fiscal year limitation to help defray operating expenses of that facility.”.

38 USC 5503  
note.

(d) **EFFECTIVE DATES.**—The amendments made by subsection (a) shall take effect on October 1, 1992, and shall apply with respect to months after September 1992. The amendment made by subsection (c) shall take effect on November 1, 1992, and shall apply with respect to months after October 1992.

**SEC. 602. EXTENSION OF AUTHORITY TO CARRY OUT INCOME VERIFICATION.**

(a) **TITLE 38.**—Section 5317(g) is amended by striking out “September 30, 1992” and inserting in lieu thereof “September 30, 1997”.

26 USC 6103.

(b) **INTERNAL REVENUE CODE OF 1986.**—(1) Subparagraph (D) of section 6103(l)(7) of the Internal Revenue Code of 1986 is amended by striking out “September 30, 1992” in the last sentence and inserting in lieu thereof “September 30, 1997”.

(2) Clause (viii) of such subparagraph is amended—

(A) in subclause (II), by striking out “section 415” and inserting in lieu thereof “section 1315”; and

(B) in subclause (III), by striking out “section 610(a)(1)(I), 610(a)(2), 610(b), and 612(a)(2)(B)” and inserting in lieu thereof “sections 1710(a)(1)(I), 1710(a)(2), 1710(b), and 1712(a)(2)(B)”.

**SEC. 603. ACCESS TO INFORMATION NECESSARY FOR THE ADMINISTRATION OF CERTAIN VETERAN BENEFITS LAWS.**

(a) **ACCESS.**—Section 1113 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413) is amended by adding at the end the following new subsection:

“(p)(1) Nothing in this title shall apply to the disclosure by the financial institution of the name and address of any customer to the Department of Veterans Affairs where the disclosure of such information is necessary to, and such information is used solely for the purposes of, the proper administration of benefits programs under laws administered by the Secretary.

“(2) Notwithstanding any other provision of law, any request authorized by paragraph (1) (and the information contained therein) may be used by the financial institution or its agents solely for the purpose of providing the customer's name and address to the Department of Veterans Affairs and shall be barred from redisclosure by the financial institution or its agents.”.

(b) **PRIVACY SAFEGUARDS.**—(1) Chapter 53 is amended by adding at the end the following new section:

**“§ 5319. Limitations on access to financial records**

“(a) The Secretary may make a request referred to in section 1113(p) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413(p)) only if the Secretary determines that the requested information—

“(1) is necessary in order for the Secretary to administer the provisions of law referred to in that section; and

“(2) cannot be secured by a reasonable search of records and information of the Department.

“(b) The Secretary shall include a certification of the determinations referred to in subsection (a) in each request presented to a financial institution.

“(c) Information disclosed pursuant to a request referred to in subsection (a) may be used solely for the purpose of the administration of benefits programs under laws administered by the Secretary if, except for the exemption in subsection (a), the disclosure

formation would otherwise be prohibited by any provision of the Financial Privacy Act of 1978.”.

the table of sections at the beginning of such chapter and by adding at the end the following new item:

ations on access to financial records.”.

#### **EXTENSION OF EXPIRING COST-RECOVERY AUTHORITY.**

on 1729(a)(2)(E) is amended by striking out “October 1, 1994” and inserting in lieu thereof “August 1, 1994”.

#### **EXCLUSION FOR LOW-INCOME VETERANS FROM MEDICATION COPAYMENT REQUIREMENT.**

**EXCLUSION.**—Section 1722A(a) is amended—

1) by striking out “(other than” and all that follows through “); and

2) by adding at the end the following:

paragraph (1) does not apply—

A) to a veteran with a service-connected disability rated 50 percent or more; or

B) to a veteran whose annual income (as determined under section 1503 of this title) does not exceed the maximum annual rate of pension which would be payable to such veteran if such veteran were eligible for pension under section 1521 of this title.”.

**EFFECTIVE DATE.**—The amendments made by subsection (a) shall apply with respect to medication furnished after the date of enactment of this Act.

38 USC 1722A  
note.

#### **EXTENSION OF COPAYMENT PROGRAMS.**

**MEDICATION COPAYMENT REQUIREMENT.**—Section 1722A(c) is amended by adding at the end the following new sentence: “Notwithstanding the preceding sentence, the provisions of subsection (a) shall be in effect through September 30, 1997.”.

**HEALTH-CARE CATEGORIES AND COPAYMENTS.**—Section 1722A(b) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508) is amended by adding at the end the following sentence: “Notwithstanding the preceding sentence, the amendments made by this section shall be in effect through September 30, 1997.”.

38 USC 1710  
note.  
Termination  
date.

ed October 29, 1992.

#### **LEGISLATIVE HISTORY—H.R. 5008:**

**REPORTS:** No. 102-753, Pt. 1 (Comm. on Veterans' Affairs) and Pt. 2 (Comm. on Ways and Means).

**CONGRESSIONAL RECORD,** Vol. 138 (1992):

10, considered and passed House.

11, considered and passed Senate, amended.

House concurred in Senate amendments with amendments.

Senate concurred in House amendments.

**COMPILATION OF PRESIDENTIAL DOCUMENTS,** Vol. 28 (1992):

1, Presidential statement.

Public Law 102-569  
102d Congress

An Act

Oct. 29, 1992  
[H.R. 5482]

Rehabilitation  
Act  
Amendments of  
1992.  
Labor.  
29 USC 701 note.

To revise and extend the programs of the Rehabilitation Act of 1973, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Rehabilitation Act Amendments of 1992”.

(b) **TABLE OF CONTENTS.**—The table of contents is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. References.

**TITLE I—ADMINISTRATION AND VOCATIONAL REHABILITATION SERVICES**

**Subtitle A—Administration**

Sec. 101. Findings and purpose.

Sec. 102. Definitions.

Sec. 103. Allotment percentage.

Sec. 104. Nonduplication.

Sec. 105. Administration of the Act.

Sec. 106. Reports.

Sec. 107. Evaluation.

Sec. 108. Review of applications.

Sec. 109. Carryover.

Sec. 110. Client assistance information.

Sec. 111. Traditionally underserved populations.

**Subtitle B—Vocational Rehabilitation Services**

Sec. 121. Policy; authorization of appropriations.

Sec. 122. State plans.

Sec. 123. Determinations of eligibility and individualized written rehabilitation program.

Sec. 124. Scope of vocational rehabilitation services.

Sec. 125. Non-Federal share for construction.

Sec. 126. State Rehabilitation Advisory Council.

Sec. 127. Evaluation.

Sec. 128. Monitoring and review.

Sec. 129. Expenditure of certain amounts.

Sec. 130. Training of employers with respect to Americans with Disabilities Act of 1990.

Sec. 131. Reallotment.

Sec. 132. Payments to States.

Sec. 133. Client assistance program.

Sec. 134. Innovation and expansion grants.

Sec. 135. Study of needs of American Indians with handicaps.

Sec. 136. Review of data collection system.

Sec. 137. Exchange of data.

Sec. 138. Effective date.

**TITLE II—RESEARCH**

Sec. 201. Declaration of purpose.

Sec. 202. Authorization of appropriations.

Sec. 203. National Institute on Disability and Rehabilitation Research.

Sec. 204. Interagency committee.

Sec. 205. Research.

Sec. 206. Rehabilitation Research Advisory Council.

**TITLE III—TRAINING AND DEMONSTRATION PROJECTS**

Sec. 301. Declaration of purpose; organization.

- Sec. 302. Training.
- Sec. 303. Community rehabilitation programs for individuals with disabilities.
- Sec. 304. Loan guarantees.
- Sec. 305. Comprehensive rehabilitation centers.
- Sec. 306. General grant and contract requirements.
- Sec. 307. Authorization of appropriations for special projects and supplementary services.
- Sec. 308. Special demonstration programs.
- Sec. 309. Migratory workers.
- Sec. 310. Special recreational programs.

#### TITLE IV—NATIONAL COUNCIL ON DISABILITY

- Sec. 401. Establishment of National Council on Disability.
- Sec. 402. Duties of National Council.
- Sec. 403. Compensation of National Council members.
- Sec. 404. Staff of National Council.
- Sec. 405. Administrative powers of National Council.
- Sec. 406. Authorization of appropriations.

#### TITLE V—RIGHTS AND ADVOCACY

- Sec. 501. Rights and advocacy.
- Sec. 502. Effect on existing law.
- Sec. 503. Employment of individuals with disabilities.
- Sec. 504. References to the Architectural and Transportation Barriers Compliance Board.
- Sec. 505. Employment under Federal contracts.
- Sec. 506. Nondiscrimination under Federal grants and programs.
- Sec. 507. Secretarial responsibilities.
- Sec. 508. Interagency Disability Coordinating Council.
- Sec. 509. Electronic and information technology accessibility guidelines.
- Sec. 510. Protection and advocacy of individual rights.

#### TITLE VI—EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES

##### Subtitle A—Community Service Employment Pilot Program for Individuals With Disabilities

- Sec. 601. Pilot program.
- Sec. 602. Treatment of personal assistance services costs.
- Sec. 603. Definitions.
- Sec. 604. Authorization of appropriations.

##### Subtitle B—Projects With Industry

- Sec. 611. Projects With Industry.
- Sec. 612. Business opportunities for individuals with disabilities.
- Sec. 613. Authorization of appropriations.

##### Subtitle C—Supported Employment Services for Individuals With Severe Disabilities

- Sec. 621. Supported employment.

#### TITLE VII—INDEPENDENT LIVING SERVICES AND CENTERS FOR INDEPENDENT LIVING

- Sec. 701. Services and centers.
- Sec. 702. Effective date.
- Sec. 703. Independent living services for older individuals who are blind.

#### TITLE VIII—SPECIAL DEMONSTRATIONS AND TRAINING PROJECTS

- Sec. 801. Special demonstrations and training projects.

#### TITLE IX—AMENDMENTS TO OTHER ACTS

##### Subtitle A—Helen Keller National Center

- Sec. 901. Congressional findings.
- Sec. 902. Continued operation of Center.
- Sec. 903. Audit, monitoring, and evaluation.
- Sec. 904. Authorization of appropriations.
- Sec. 905. Definitions.
- Sec. 906. Construction of Act, effect on agreements.

Sec. 907. Establishment of a program.

Sec. 908. Technical and conforming amendments.

**Subtitle B—Other Programs**

Sec. 911. Committee for Purchase From People Who Are Blind or Severely Disabled.

Sec. 912. Individuals With Disabilities Education Act.

Sec. 913. Technology-Related Assistance for Individuals With Disabilities Act of 1988.

Sec. 914. President's Committee on Employment of People With Disabilities.

**SEC. 2. REFERENCES.**

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.).

**TITLE I—ADMINISTRATION AND VOCATIONAL REHABILITATION SERVICES**

**Subtitle A—Administration**

**SEC. 101. FINDINGS AND PURPOSE.**

Section 2 (29 U.S.C. 701) is amended to read as follows:

**“FINDINGS; PURPOSE; POLICY**

**“SEC. 2. (a) FINDINGS.—Congress finds that—**

**“(1) millions of Americans have one or more physical or mental disabilities and the number of Americans with such disabilities is increasing;**

**“(2) individuals with disabilities constitute one of the most disadvantaged groups in society;**

**“(3) disability is a natural part of the human experience and in no way diminishes the right of individuals to—**

**“(A) live independently;**

**“(B) enjoy self-determination;**

**“(C) make choices;**

**“(D) contribute to society;**

**“(E) pursue meaningful careers; and**

**“(F) enjoy full inclusion and integration in the economic, political, social, cultural, and educational mainstream of American society;**

**“(4) increased employment of individuals with disabilities can be achieved through the provision of individualized training, independent living services, educational and support services, and meaningful opportunities for employment in integrated work settings through the provision of reasonable accommodations;**

**“(5) individuals with disabilities continually encounter various forms of discrimination in such critical areas as employment, housing, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and public services; and**

**“(6) the goals of the Nation properly include the goal of providing individuals with disabilities with the tools necessary to—**

"(A) make informed choices and decisions; and

"(B) achieve equality of opportunity, full inclusion and integration in society, employment, independent living, and economic and social self-sufficiency, for such individuals.

"(b) PURPOSE.—The purposes of this Act are—

"(1) to empower individuals with disabilities to maximize employment, economic self-sufficiency, independence, and inclusion and integration into society, through—

"(A) comprehensive and coordinated state-of-the-art programs of vocational rehabilitation;

"(B) independent living centers and services;

"(C) research;

"(D) training;

"(E) demonstration projects; and

"(F) the guarantee of equal opportunity; and

"(2) to ensure that the Federal Government plays a leadership role in promoting the employment of individuals with disabilities, especially individuals with severe disabilities, and in assisting States and providers of services in fulfilling the aspirations of such individuals with disabilities for meaningful and gainful employment and independent living.

"(c) POLICY.—It is the policy of the United States that all programs, projects, and activities receiving assistance under this Act shall be carried out in a manner consistent with the principles of—

"(1) respect for individual dignity, personal responsibility, self-determination, and pursuit of meaningful careers, based on informed choice, of individuals with disabilities;

"(2) respect for the privacy, rights, and equal access (including the use of accessible formats), of the individuals;

"(3) inclusion, integration, and full participation of the individuals;

"(4) support for the involvement of a parent, a family member, a guardian, an advocate, or an authorized representative if an individual with a disability requests, desires, or needs such support; and

"(5) support for individual and systemic advocacy and community involvement."

#### SEC. 102. DEFINITIONS.

(a) DESIGNATED STATE AGENCY.—Section 7(3) (29 U.S.C. 706(3)) is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively; and

(2) by striking "(3)" and inserting the following:

"(3)(A) The term 'designated State agency' means an agency designated under section 101(a)(1)(A).

(b) ESTABLISHMENT OF A COMMUNITY REHABILITATION PROGRAM.—Section 7(4) (29 U.S.C. 706(4)) is amended—

(1) by striking "rehabilitation facility" each place the term appears and inserting "community rehabilitation program";

(2) by striking "means" and inserting "includes"; and

(3) by striking "such facilities)" and inserting "facilities for community rehabilitation programs)".

(c) EMPLOYMENT OUTCOME.—Section 7(6) (29 U.S.C. 706(6)) is amended to read as follows:



"(6) The term 'employment outcome' means, with respect to an individual, entering or retaining full-time or, if appropriate, part-time competitive employment in the integrated labor market (including satisfying the vocational outcome of supported employment) or satisfying any other vocational outcome the Secretary may determine, consistent with this Act."

(d) DRUG.—Section 7 (29 U.S.C. 706) is amended—

- (1) by striking paragraph (5);
- (2) by redesignating paragraphs (4) and (6) as paragraphs (6) and (5), respectively;
- (3) by inserting paragraph (6) (as so redesignated by paragraph (2) of this subsection) before paragraph (7);
- (4) by redesignating paragraph (22) as paragraph (4); and
- (5) by inserting paragraph (4) (as so redesignated by paragraph (4) of this subsection) after paragraph (3).

(e) FEDERAL SHARE.—Section 7(7) (29 U.S.C. 706(7)) is amended—

- (1) in subparagraph (A), by striking "80 percent" and inserting "78.7 percent";
- (2) by striking subparagraph (B);
- (3) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively; and
- (4) in subparagraph (B) (as redesignated by paragraph (3) of this subsection), by striking "section 301(b)(3)" each place the term appears and inserting "section 111(a)(3)".

(f) INDIVIDUAL WITH DISABILITIES.—Section 7(8) (29 U.S.C. 706(8)) is amended—

(1) in subparagraph (A)—

(A) by striking "handicaps" and inserting "a disability";

(B) in clause (i)—

(i) by striking "disability" and inserting "impairment"; and

(ii) by striking "handicap" and inserting "impediment"; and

(C) in clause (ii)—

(i) by striking "reasonably be expected to";

(ii) by striking "employability" and inserting "an employment outcome"; and

(iii) by striking "titles I and III" and inserting "titles I, II, III, VI, and VIII";

(2) in subparagraph (B)—

(A) by striking "(C) and (D)" and inserting "(C), (D), (E), and (F)";

(B) by striking "handicaps" and inserting "a disability"; and

(C) by striking "titles IV and V" and inserting "sections 2, 14, and 15, and titles IV and V";

(3) in subparagraph (C)—

(A) in clause (i), by striking "handicaps" and inserting "a disability";

(B) in clause (ii), by striking "handicaps" and inserting "a disability";

(C) in clause (iv)—

(i) by striking "handicapped student" and inserting "student who is an individual with a disability and"; and

(ii) by striking “nonhandicapped students” and inserting “students who are not individuals with disabilities”; and

(D) in clause (v) by striking “handicaps” and inserting “a disability”; and

(4) by adding at the end the following:

“(E) For the purposes of sections 501, 503 and 504—

“(i) for purposes of the application of subparagraph (B) to such sections, the term ‘impairment’ does not include homosexuality or bisexuality; and

“(ii) therefore the term ‘individual with a disability’ does not include an individual on the basis of homosexuality or bisexuality.

“(F) For the purposes of sections 501, 503, and 504, the term ‘individual with a disability’ does not include an individual on the basis of—

“(i) transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;

“(ii) compulsive gambling, kleptomania, or pyromania; or

“(iii) psychoactive substance use disorders resulting from current illegal use of drugs.”

(g) NONPROFIT.—Section 7(10) (29 U.S.C. 706(10)) is amended by striking “with respect to a rehabilitation facility, means a rehabilitation facility owned and operated by” and inserting “with respect to a community rehabilitation program, means a community rehabilitation program carried out by”.

(h) PERSONAL ASSISTANCE SERVICES.—Section 7 (29 U.S.C. 706) is amended—

(1) by striking paragraph (13);

(2) by redesignating paragraphs (11) and (12) as paragraphs (12) and (13), respectively; and

(3) by inserting after paragraph (10) the following:

“(11) The term ‘personal assistance services’ means a range of services, provided by one or more persons, designed to assist an individual with a disability to perform daily living activities on or off the job that the individual would typically perform if the individual did not have a disability. Such services shall be designed to increase the individual’s control in life and ability to perform everyday activities on or off the job.”

(i) REHABILITATION TECHNOLOGY.—Section 7(13) (29 U.S.C. 706(13)) (as so redesignated by subsection (h)(2)) is amended—

(1) by striking “rehabilitation engineering” and inserting “rehabilitation technology”; and

(2) by adding at the end the following: “The term includes rehabilitation engineering, assistive technology devices, and assistive technology services.”

(j) INDIVIDUAL WITH A SEVERE DISABILITY.—Section 7(15) (29 U.S.C. 706(15)) is amended—

(1) in subparagraph (A)—

(A) by striking “subparagraph (B)” and inserting “subparagraph (B) or (C)”; and

(B) in clause (i)—

(i) by striking “disability” and inserting “impairment”; and

(ii) by striking “employability” and inserting “an employment outcome”; and

(C) in clause (iii), by striking "evaluation of rehabilitation potential" and inserting "assessment for determining eligibility and vocational rehabilitation needs described in subparagraphs (A) and (C) of paragraph (22)"; and  
(2) by striking subparagraph (B) and inserting the following:

"(B) For purposes of title VII, the term 'individual with a severe disability' means an individual with a severe physical or mental impairment whose ability to function independently in the family or community or whose ability to obtain, maintain, or advance in employment is substantially limited and for whom the delivery of independent living services will improve the ability to function, continue functioning, or move towards functioning independently in the family or community or to continue in employment, respectively.

"(C) For purposes of section 13 and title II, the term 'individual with a severe disability' includes an individual described in subparagraph (A) or (B)."

(k) STATE.—Section 7(16) (29 U.S.C. 706(16)) is amended to read as follows:

"(16) The term 'State' includes, in addition to each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau (until the Compact of Free Association with Palau takes effect)."

(l) SUPPORTED EMPLOYMENT.—Section 7(18) (29 U.S.C. 706(18)) is amended to read as follows:

"(18)(A) The term 'supported employment' means competitive work in integrated work settings for individuals with the most severe disabilities—

"(i)(I) for whom competitive employment has not traditionally occurred; or

"(II) for whom competitive employment has been interrupted or intermittent as a result of a severe disability; and

"(ii) who, because of the nature and severity of their disability, need intensive supported employment services or extended services in order to perform such work.

"(B) Such term includes transitional employment for persons who are individuals with the most severe disabilities due to mental illness."

(m) PUBLIC OR NONPROFIT.—Section 7(19) (29 U.S.C. 706(19)) is amended to read as follows:

"(19) The term 'public or nonprofit', with respect to an agency or organization, includes an Indian tribe."

(n) ADDITIONAL DEFINITIONS.—Section 7 (29 U.S.C. 706) (as amended by subsection (d)(4)) is amended by adding at the end the following new paragraphs:

"(22) The term 'assessment for determining eligibility and vocational rehabilitation needs' means, as appropriate in each case—

"(A)(i) a review of existing data—

"(I) to determine whether an individual is eligible for vocational rehabilitation services; and

"(II) to assign the priority described in section 101(a)(5)(A) in the States that use an order of selection pursuant to section 101(a)(5)(A); and

"(ii) to the extent additional data is necessary to make such determination and assignment, a preliminary assessment of such data (including the provision of goods and services during such assessment);

"(B) to the extent additional data is necessary, a comprehensive assessment (including the administration of the assessment) of the unique strengths, resources, priorities, interests, and needs, including the need for supported employment, of an eligible individual to make a determination of the goals, objectives, nature, and scope of vocational rehabilitation services to be included in the individualized written rehabilitation program of the individual, which comprehensive assessment—

"(i) is limited to information that is necessary to identify the rehabilitation needs of the individual and to develop the rehabilitation program of the individual;

"(ii) uses, as a primary source of such information, to the maximum extent possible and appropriate and in accordance with confidentiality requirements—

"(I) existing information; and

"(II) such information as can be provided by the individual and, where appropriate, by the family of the individual;

"(iii) may include, to the degree needed to make such a determination, an assessment of the personality, interests, interpersonal skills, intelligence and related functional capacities, educational achievements, work experience, vocational aptitudes, personal and social adjustments, and employment opportunities of the individual, and the medical, psychiatric, psychological, and other pertinent vocational, educational, cultural, social, recreational, and environmental factors, that affect the employment and rehabilitation needs of the individual; and

"(iv) may include an appraisal of the patterns of work behavior of the individual and services needed for the individual to acquire occupational skills, and to develop work attitudes, work habits, work tolerance, and social and behavior patterns necessary for successful job performance, including the utilization of work in real job situations to assess and develop the capacities of the individual to perform adequately in a work environment; and

"(C)(i) referral;

"(ii) where appropriate, the provision of rehabilitation technology services to an individual with a disability to assess and develop the capacities of the individual to perform in a work environment; and

"(iii)(I) the provision of vocational rehabilitation services to an individual for a total period not in excess of 18 months for the limited purpose of making determinations regarding whether an individual is eligible for vocational rehabilitation services and regarding the nature and scope of vocational rehabilitation services needed for such individual; and

"(II) an assessment at least once in every 90-day period during which such services are provided, of the results of the provision of such services to an individual to ascertain whether any of the determinations described in subclause (I) may be made.

"(23) The term 'assistive technology device' has the meaning given such term in section 3(1) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2202(1)), except that the reference in such section to the term 'individuals with disabilities' shall be deemed to mean more than one individual with a disability as defined in paragraph (8)(A).

"(24) The term 'assistive technology service' has the meaning given such term in section 3(2) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2202(2)), except that the reference in such section—

"(A) to the term 'individual with a disability' shall be deemed to mean an individual with a disability, as defined in paragraph (8)(A); and

"(B) to the term 'individuals with disabilities' shall be deemed to mean more than one such individual.

"(25) The term 'community rehabilitation program' means a program that provides directly or facilitates the provision of vocational rehabilitation services to individuals with disabilities, and that provides, singly or in combination, for an individual with a disability to enable the individual to maximize opportunities for employment, including career advancement—

"(A) medical, psychiatric, psychological, social, and vocational services that are provided under one management;

"(B) testing, fitting, or training in the use of prosthetic and orthotic devices;

"(C) recreational therapy;

"(D) physical and occupational therapy;

"(E) speech, language, and hearing therapy;

"(F) psychiatric, psychological, and social services, including positive behavior management;

"(G) assessment for determining eligibility and vocational rehabilitation needs;

"(H) rehabilitation technology;

"(I) job development, placement, and retention services;

"(J) evaluation or control of specific disabilities;

"(K) orientation and mobility services for individuals who are blind;

"(L) extended employment;

"(M) psychosocial rehabilitation services;

"(N) supported employment services and extended services;

"(O) services to family members when necessary to the vocational rehabilitation of the individual;

"(P) personal assistance services; or

"(Q) services similar to the services described in one of subparagraphs (A) through (P).

"(26) The term 'disability' means—

"(A) except as otherwise provided in subparagraph (B), a physical or mental impairment that constitutes or results in a substantial impediment to employment; or

"(B) for purposes of sections 2, 14, and 15, and titles II, III, IV, V, and VIII, a physical or mental impairment that substantially limits one or more major life activities.

"(27) The term 'extended services' means ongoing support services and other appropriate services, needed to support and maintain an individual with the most severe disability in supported employment, that—

"(A) are provided singly or in combination and are organized and made available in such a way as to assist an eligible individual in maintaining integrated, competitive employment;

"(B) are based on a determination of the needs of an eligible individual, as specified in an individualized written rehabilitation program; and

"(C) are provided by a State agency, a nonprofit private organization, employer, or any other appropriate resource, after an individual has made the transition from support provided by the designated State unit.

"(28)(A) The term 'impartial hearing officer' means an individual—

"(i) who is not an employee of a public agency (other than an administrative law judge, hearing examiner, or employee of an institution of higher education);

"(ii) who is not a member of the State Rehabilitation Advisory Council described in section 105;

"(iii) who has not been involved in previous decisions regarding the vocational rehabilitation of the applicant or client;

"(iv) who has knowledge of the delivery of vocational rehabilitation services, the State plan under section 101, and the Federal and State rules governing the provision of such services and training with respect to the performance of official duties; and

"(v) who has no personal or financial interest that would be in conflict with the objectivity of the individual.

"(B) An individual shall not be considered to be an employee of a public agency for purposes of subparagraph (A)(i) solely because the individual is paid by the agency to serve as a hearing officer.

"(29) The term 'independent living core services' means—

"(A) information and referral services;

"(B) independent living skills training;

"(C) peer counseling (including cross-disability peer counseling); and

"(D) individual and systems advocacy.

"(30) The term 'independent living services' includes—

"(A) independent living core services; and

"(B)(i) counseling services, including psychological, psychotherapeutic, and related services;

"(ii) services related to securing housing or shelter, including services related to community group living, and supportive of the purposes of this Act and of the titles of this Act, and adaptive housing services (including appropriate accommodations to and modifications of any space used to serve, or occupied by, individuals with disabilities);

"(iii) rehabilitation technology;

"(iv) mobility training;

"(v) services and training for individuals with cognitive and sensory disabilities, including life skills training, and interpreter and reader services;

"(vi) personal assistance services, including attendant care and the training of personnel providing such services;

"(vii) surveys, directories, and other activities to identify appropriate housing, recreation opportunities, and accessible transportation, and other support services;

"(viii) consumer information programs on rehabilitation and independent living services available under this Act, especially

for minorities and other individuals with disabilities who have traditionally been unserved or underserved by programs under this Act;

“(ix) education and training necessary for living in a community and participating in community activities;

“(x) supported living;

“(xi) transportation, including referral and assistance for such transportation;

“(xii) physical rehabilitation;

“(xiii) therapeutic treatment;

“(xiv) provision of needed prostheses and other appliances and devices;

“(xv) individual and group social and recreational services;

“(xvi) training to develop skills specifically designed for youths who are individuals with disabilities to promote self-awareness and esteem, develop advocacy and self-empowerment skills, and explore career options;

“(xvii) services for children;

“(xviii) services under other Federal, State, or local programs designed to provide resources, training, counseling, or other assistance, of substantial benefit in enhancing the independence, productivity, and quality of life of individuals with disabilities;

“(xix) appropriate preventive services to decrease the need of individuals assisted under this Act for similar services in the future;

“(xx) community awareness programs to enhance the understanding and integration into society of individuals with disabilities; and

“(xxi) such other services as may be necessary and not inconsistent with the provisions of this Act.

“(31)(A) The term ‘individuals with disabilities’ means more than one individual with a disability.

“(B) The term ‘individuals with severe disabilities’ means more than one individual with a severe disability.

“(C) The term ‘individuals with the most severe disabilities’ means more than one individual with the most severe disability.

“(32) The term ‘institution of higher education’ has the meaning given the term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

“(33) The term ‘ongoing support services’ means services—

“(A) provided to individuals with the most severe disabilities;

“(B) provided, at a minimum, twice monthly—

“(i) to make an assessment, regarding the employment situation, at the worksite of each such individual in supported employment, or, under special circumstances, especially at the request of the client, off site; and

“(ii) based on the assessment, to provide for the coordination or provision of specific intensive services, at or away from the worksite, that are needed to maintain employment stability; and

“(C) consisting of—

“(i) a particularized assessment supplementary to the comprehensive assessment described in paragraph (22)(B);

“(ii) the provision of skilled job trainers who accompany the individual for intensive job skill training at the work site;

“(iii) job development and placement;

“(iv) social skills training;

“(v) regular observation or supervision of the individual;

“(vi) followup services such as regular contact with the employers, the individuals, the parents, family members, guardians, advocates, or authorized representatives of the individuals, and other suitable professional and informed advisors, in order to reinforce and stabilize the job placement;

“(vii) facilitation of natural supports at the worksite;

“(viii) any other service identified in section 103; or

“(ix) a service similar to another service described in this subparagraph.

“(34) The term ‘supported employment services’ means ongoing support services and other appropriate services needed to support and maintain an individual with the most severe disability in supported employment, that—

“(A) are provided singly or in combination and are organized and made available in such a way to assist an eligible individual in entering or maintaining integrated, competitive employment;

“(B) are based on a determination of the needs of an eligible individual, as specified in an individualized written rehabilitation program; and

“(C) are provided by the designated State unit for a period of time not to extend beyond 18 months, unless under special circumstances the eligible individual and the rehabilitation counselor or coordinator jointly agree to extend the time in order to achieve the rehabilitation objectives identified in the individualized written rehabilitation program.

“(35) The term ‘transition services’ means a coordinated set of activities for a student, designed within an outcome-oriented process, that promotes movement from school to post school activities, including post secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The coordinated set of activities shall be based upon the individual student’s needs, taking into account the student’s preferences and interests, and shall include instruction, community experiences, the development of employment and other post school adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.”

(o) TECHNICAL AMENDMENT.—Section 101 (29 U.S.C. 721) is amended—

(1) by striking “clause” each place the term appears and inserting “paragraph”;

(2) by striking “subclause” each place the term appears and inserting “subparagraph”; and

(3) by striking “clauses” and inserting “paragraphs”.

(p) CONFORMING AMENDMENTS; INDIVIDUALS WITH DISABILITIES.—

(1) The title of the Act (29 U.S.C. 701 et seq.) is amended—



(A) by striking “those with the most severe handicaps” and inserting “individuals with the most severe disabilities”; and

(B) by striking “individuals with handicaps” each place such term appears and inserting “individuals with disabilities”.

(2) The table of contents relating to the Act is amended—

(A) by striking the item relating to section 501 and inserting the following:

“Sec. 501. Employment of individuals with disabilities.”;

(B) by striking the item relating to the title heading for title VI and inserting the following:

“TITLE VI—EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES”;

and

(C) by striking the item relating to the part heading for part A of title VI and inserting the following:

“PART A—COMMUNITY SERVICE EMPLOYMENT PROGRAMS FOR INDIVIDUALS WITH DISABILITIES”.

(3) Section 7 (29 U.S.C. 706) is amended—

(A) in paragraph (13) (as so redesignated by subsection (h)(2)) by striking “handicaps” and inserting “disabilities”;

(B) in paragraph (15)(A)—

(i) by striking “severe handicaps” and inserting “a severe disability”; and

(ii) by striking “handicaps (as defined in paragraph (8))” and inserting “a disability”; and

(C) in paragraph (17) by striking “handicaps” and inserting “disabilities”.

(4) The last sentence of section 13 (29 U.S.C. 712) is amended by striking “handicaps” and inserting “disabilities”.

(5) Section 14(a) (29 U.S.C. 713(a)) is amended by striking “handicaps” and inserting “disabilities”.

(6) Section 15 (29 U.S.C. 714) is amended—

(A) in subsections (a) and (b) by striking “handicaps” each place such term appears and inserting “disabilities”;

(B) in subsection (a)(2) by striking “handicapping conditions” and inserting “disabilities”; and

(C) in subsection (c) by striking “the Handicapped” and inserting “Individuals with Disabilities”.

(7) Section 101(a) (29 U.S.C. 721(a)) is amended—

(A) in paragraph (1)—

(i) by striking “handicaps” each place such term appears and inserting “disabilities”;

(ii) in subparagraph (A)(i)—

(I) by striking “the blind” each place such term appears and inserting “individuals who are blind”; and

(II) by striking “the adult blind” and inserting “adults who are blind”; and

(iii) in subparagraph (B), by striking “the blind” and inserting “individuals who are blind”;

(B) in paragraph (2)(B) by striking “the blind” and inserting “individuals who are blind”;

(C) in paragraphs (2), (4), (5), (6), (10), (11), (12), (21), and in the matter preceding paragraph (16), by striking "handicaps" each place such term appears and inserting "disabilities";

(D) in paragraph (9) by striking "handicaps" and inserting "a disability";

(E) in paragraph (13)(B) by striking "with handicaps whose handicapping conditions arises from a disability sustained" and inserting "with a disability whose disability was sustained";

(F) in paragraph (20)—

(i) by striking "American Indians with handicaps" and inserting "American Indians who are individuals with disabilities"; and

(ii) by striking "individuals with handicaps" and inserting "individuals with disabilities"; and

(G) in paragraph (22)—

(i) by striking "the deaf" and inserting "individuals who are deaf"; and

(ii) by striking "handicaps" and inserting "disabilities".

(8) Subsections (c) and (d) of section 102 (29 U.S.C. 722 (c) and (d)) are amended by striking "handicaps" and inserting "a disability".

(9) Section 103 (29 U.S.C. 723) is amended—

(A) in the matter preceding paragraph (1) in subsection (a), and in subsection (b)(2), by striking "handicaps" and inserting "a disability";

(B) except as provided in subparagraph (A), by striking "handicaps" each place such term appears and inserting "disabilities";

(C) in subsection (a)—

(i) in subparagraph (E) of paragraph (4), by striking "suffering from" and inserting "with";

(ii) in paragraph (6), by striking "deaf individuals" and inserting "individuals who are deaf"; and

(iii) in paragraph (8), by striking "the blind" and inserting "individuals who are blind"; and

(D) in subsection (b)(4)—

(i) by striking "the blind" and inserting "individuals who are blind"; and

(ii) by striking "the deaf" and inserting "individuals who are deaf".

(10) Section 112 (29 U.S.C. 732) is amended by striking "handicaps" each place such term appears and inserting "disabilities".

(11) Section 130 (29 U.S.C. 750) is amended—

(A) in subsections (a) and (b)(1)(B) by striking "American Indians with handicaps" and inserting "American Indians who are individuals with disabilities"; and

(B) in subsection (b)(1)(B) by striking "individuals with handicaps" and inserting "individuals with disabilities".

(12) Section 202 (29 U.S.C. 761a) is amended—

(A) by striking "handicaps" each place such term appears and inserting "disabilities"; and

(B) in subsection (c)(1) by striking "the Handicapped" and inserting "Disability".

(13) Subsections (b) and (c) of section 203 (29 U.S.C. 761b (b) and (c)) are amended by striking "handicaps" each place such term appears and inserting "disabilities".

(14) Section 204 (29 U.S.C. 762) is amended—

(A) in subsection (b)—

(i) in paragraph (4), by striking "individuals suffering from" and inserting "individuals with";

(ii) in paragraph (8)—

(I) by striking "children with handicaps" and inserting "children who are individuals with disabilities"; and

(II) by striking "American Indians with handicaps" and inserting "American Indians who are individuals with disabilities";

(iii) in paragraph (10), by striking "deaf individuals" and inserting "individuals who are deaf"; and

(iv) in paragraph (11)—

(I) by striking "children with handicaps" and inserting "children who are individuals with disabilities"; and

(II) by striking "children with severe handicaps" each place such term appears and inserting "children who are individuals with severe disabilities"; and

(B) except as provided in subparagraph (A), by striking "handicaps" each place such term appears and inserting "disabilities".

(15) Section 300 (29 U.S.C. 770) is amended—

(A) in paragraph (2) by striking "handicaps" and inserting "disabilities"; and

(B) in paragraph (3)—

(i) by striking "individuals with handicaps" each place such term appears and inserting "individuals with disabilities";

(ii) by striking "older blind individuals, and deaf individuals" and inserting "older individuals who are blind, and individuals who are deaf";

(iii) by striking "workers with handicaps" and inserting "workers who are individuals with disabilities"; and

(iv) by striking "farmworkers with handicaps" and inserting "farmworkers who are individuals with disabilities".

(16) Section 302 (29 U.S.C. 772) is amended—

(A) in the section heading, by striking "HANDICAPS" and inserting "DISABILITIES"; and

(B) in subsections (b) and (c) by striking "handicaps" each place such term appears and inserting "disabilities".

(17) Section 303(a) (29 U.S.C. 773(a)) is amended by striking "handicaps" and inserting "disabilities".

(18) Section 304 (29 U.S.C. 774) is amended—

(A) by striking "handicaps" each place such term appears and inserting "disabilities"; and

(B) in subsection (b)(2)(B), by striking "handicap" and inserting "disability".

(19) Section 305(a) (29 U.S.C. 775(a)) is amended—

(A) in paragraph (1), by striking "handicaps" each place such term appears and inserting "disabilities"; and

(B) in paragraph (2) by striking "the deaf" and inserting "individuals who are deaf".

(20) Subsections (f) and (h) of section 306 (29 U.S.C. 776 (f) and (h)) are amended by striking "handicaps" each place such term appears and inserting "disabilities".

(21) Section 311 (29 U.S.C. 777a) is amended—

(A) in subsection (a), by striking "handicaps" each place such term appears and inserting "disabilities";

(B) in subsection (c)(1), by striking "with handicaps" and inserting "who are individuals with disabilities";

(C) in subsection (d)(3), by striking "handicaps" and inserting "disabilities"; and

(D) in subsection (e)—

(i) in paragraph (1), by striking "with severe handicaps" and inserting "who are individuals with severe disabilities"; and

(ii) in paragraph (4)(B), by striking "youths with severe handicaps and youths with mild handicaps" and inserting "youths who are individuals with severe disabilities and other youths with disabilities".

(22) Section 312 (29 U.S.C. 777b) is amended by striking "handicaps" each place such term appears and inserting "disabilities".

(23) Section 314 (29 U.S.C. 777d) is amended—

(A) in the section heading, by striking "THE BLIND" and inserting "INDIVIDUALS WHO ARE BLIND";

(B) in subsection (a)(1), by striking "blind persons" and inserting "individuals who are blind and";

(C) in subsection (a)(2)—

(i) by striking "available to blind persons" and inserting "available to individuals who are blind";

(ii) by striking "needs of blind persons" and inserting "needs of such individuals"; and

(iii) by striking "to assist blind persons" and inserting "to assist such individuals"; and

(D) in paragraphs (1), (2), (5), and (6) of subsection (c), by striking "blind persons" and inserting "individuals who are blind".

(24) Section 315 (29 U.S.C. 777e) is amended—

(A) in the section heading, by striking "THE DEAF" and inserting "INDIVIDUALS WHO ARE DEAF";

(B) in subsection (a), by striking "deaf individuals" each place such term appears and inserting "individuals who are deaf";

(C) in subsection (b)(1), by striking "to the maximum number of deaf individuals feasible" and inserting "to the maximum feasible number of individuals who are deaf";

(D) in subsection (c), by striking "deaf individuals" each place such term appears and inserting "individuals who are deaf"; and

(E) in subsection (d), by striking "deaf individuals" and inserting "individuals who are deaf and".

(25) Section 316(a)(1) (29 U.S.C. 777f(a)(1)) is amended—

(A) by striking "individuals with handicaps" each place such term appears and inserting "individuals with disabilities"; and

(B) by striking "peers without handicaps" and inserting "peers who are not individuals with disabilities".

(26) Section 400(a) (29 U.S.C. 780(a)) is amended by striking "handicaps" each place such term appears and inserting "disabilities".

(27) Section 401(a) (29 U.S.C. 781(a)) is amended—

(A) in paragraph (4), by striking "individuals with handicaps and" each place such term appears; and

(B) in paragraphs (5), (6), and (7), by striking "handicaps" each place such term appears and inserting "disabilities".

(28) Section 403(a)(1) (29 U.S.C. 783(a)(1)) is amended by striking "handicaps" and inserting "disabilities".

(29) Section 501 (29 U.S.C. 791) is amended—

(A) in the section heading, by striking "HANDICAPS" and inserting "DISABILITIES";

(B) in subsection (a), by striking "Handicapped Employees" and inserting "Employees who are Individuals with Disabilities";

(C) in subsections (a), (b), (c), (d), and (f), by striking "individuals with handicaps" each place such term appears and inserting "individuals with disabilities"; and

(D) in subsection (b), by striking "employees with handicaps" and inserting "employees who are individuals with disabilities".

(30) Subsections (a), (c), (g), and (h) of section 502 (29 U.S.C. 792 (a), (c), (g), and (h)) are amended by striking "handicaps" each place such term appears and inserting "disabilities".

(31) Section 503 (29 U.S.C. 793) is amended—

(A) in subsection (a), by striking "handicaps as defined in section 7(8)" and inserting "disabilities"; and

(B) in subsection (b)—

(i) by striking "individual with handicaps" and inserting "individual with a disability"; and

(ii) by striking "individuals with handicaps" each place such term appears and inserting "individuals with disabilities".

(32) Section 504 (29 U.S.C. 794) is amended in subsection (a)—

(A) by striking "handicaps" and inserting "a disability"; and

(B) by striking "handicap" and inserting "disability".

(33) Title VI is amended in the title heading by striking "HANDICAPS" and inserting "DISABILITIES".

(34) Section 601 (29 U.S.C. 701 note) is amended by striking "Handicaps" and inserting "Disabilities".

(35) Part A of title VI is amended in the part heading, by striking "HANDICAPS" and inserting "DISABILITIES".

(36) Subsections (a) and (b) of section 611 (29 U.S.C. 795 (a) and (b)) are amended by striking "handicaps" each place such term appears and inserting "disabilities".

(37) Section 615(a)(1) (29 U.S.C. 795d(a)(1)) is amended by striking "handicaps" and inserting "disabilities".

(38) Section 616(2) (29 U.S.C. 795e(2)) is amended, by striking "handicaps" and inserting "disabilities".

(39) Section 622 (29 U.S.C. 795h) is amended—

(A) in the section heading, by striking "HANDICAPS" and inserting "DISABILITIES"; and

(B) by striking "handicaps" and inserting "disabilities".

#### SEC. 103. ALLOTMENT PERCENTAGE.

Section 8(a)(1) (29 U.S.C. 707(a)(1)) is amended—

(1) by striking "The" and inserting "For purposes of section 110, the"; and

(2) by striking "and the Trust Territory of the Pacific Islands" and inserting "and the Republic of Palau (until the Compact of Free Association with Palau takes effect)".

#### SEC. 104. NONDUPLICATION.

The second sentence of section 10 (29 U.S.C. 709) is amended by striking "rehabilitation facilities" and inserting "community rehabilitation programs".

#### SEC. 105. ADMINISTRATION OF THE ACT.

(a) TRAINING.—Section 12(a)(2) (29 U.S.C. 711(a)(2)) is amended by inserting before the semicolon the following: ", including training for the personnel of community rehabilitation programs, centers for independent living, and other providers of services (including job coaches)".

(b) ISSUANCE OF REGULATIONS.—Section 12 (29 U.S.C. 711) is amended—

(1) by redesignating subsection (d) as subsection (f); and

(2) by inserting after subsection (c) the following:

"(d) The Secretary shall promulgate regulations regarding the requirements for the implementation of an order of selection for vocational rehabilitation services under section 101(a)(5)(A) if such services cannot be provided to all eligible individuals with disabilities who apply for such services.

"(e)(1) Not later than 120 days after the date of the enactment of the Rehabilitation Act Amendments of 1992, the Secretary shall receive public comment and promulgate regulations establishing criteria pertaining to the selection of vocational rehabilitation services, and of vocational rehabilitation services providers, by an individual with a disability, consistent with the individualized written rehabilitation program of the individual under section 102.

"(2) Regulations under paragraph (1) shall include the following:

"(A) Procedures that States must adopt to ensure that the services provided under this Act are of sufficient scope and quality, that the costs of such services and the length of time such services are provided are reasonable, and that such services are available in a timely manner.

"(B) Procedures that prevent fraud, waste, and abuse.

"(C) Procedures to assure that services are provided in the most integrated settings.

"(D) Procedures to assure that rehabilitation providers comply with State guarantees, such as—

"(i) affirmative action procedures with respect to the employment of individuals with disabilities;

"(ii) standards governing community rehabilitation programs and qualified personnel utilized for the provision of vocational rehabilitation services; and

“(iii) minimum standards to ensure the availability of personnel, to the maximum extent feasible, trained to communicate in the native language or mode of communication of the client.

“(E) Standards to be adhered to by providers to help ensure the integrity of services.

“(F) Guidelines for assisting individuals with disabilities and for providing information about available vocational rehabilitation service providers, especially for assisting—

“(i) individuals with cognitive and other disabilities who, due to the nature of the disability, require support and assistance in fully implementing the selection and procurement of services; and

“(ii) the parents, family members, guardians, advocates, or authorized representatives of the individuals.”.

#### SEC. 106. REPORTS.

The fourth sentence of section 13 (29 U.S.C. 712) is amended by inserting “including types of rehabilitation technology services provided,” after “types of services provided.”.

#### SEC. 107. EVALUATION.

Section 14 (29 U.S.C. 713) is amended—

(1)(A) by striking “Commissioner” the first place such term appears and inserting “Secretary, in consultation with the Commissioner,”; and

(B) except as provided in subparagraph (A), by striking “Commissioner” each place such term appears and inserting “Secretary”;

(2) in the third sentence of subsection (a)—

(A) by striking “program and” and inserting “program,”;

(B) by striking “and the characteristics” and inserting “, the characteristics”; and

(C) by inserting before the period “, and the employment outcomes to be attained”;

(3) in subsection (b) by striking “shall,” and all that follows through “obtain” and inserting “shall obtain”; and

(4)(A) by redesignating subsection (f) as subsection (g); and

(B) by inserting after subsection (e) the following subsection:

“(f)(1) To assess the linkages between vocational rehabilitation services and economic and noneconomic outcomes, the Secretary shall continue to conduct a longitudinal study of a national sample of applicants for the services.

“(2) The study shall address factors related to attrition and completion of the program through which the services are provided and factors within and outside the program affecting results. Appropriate comparisons shall be used to contrast the experiences of similar persons who do not obtain the services.

“(3) The study shall be planned to cover the period beginning on the application of the individuals for the services, through the eligibility determination and provision of services for the individuals, and a further period of not less than 2 years after the termination of services”.

**SEC. 108. REVIEW OF APPLICATIONS.**

(a) **TRANSFERS.**—Section 16(b) (29 U.S.C. 715(b)) is amended by striking “one-half of”.

(b) **COMPENSATION.**—Section 18 (29 U.S.C. 717) is amended by striking “the rate provided for grade GS-18 of the General Schedule under section 5332” and inserting “the daily equivalent of the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382”.

**SEC. 109. CARRYOVER.**

(a) **IN GENERAL.**—The Act is amended by inserting after section 18 (29 U.S.C. 717) the following new section:

**“SEC. 19. CARRYOVER.**

“(a) **IN GENERAL.**—Except as provided in subsection (b), and notwithstanding any other provision of law, any funds appropriated for a fiscal year to carry out any grant program under part B or C of title I, section 509, part C of title VI, or part B or C of chapter 1 of title VII, that are not obligated and expended by recipients prior to the beginning of the succeeding fiscal year shall remain available for obligation and expenditure by such recipients during such succeeding fiscal year.

“(b) **NON-FEDERAL SHARE.**—Such funds shall remain available for obligation and expenditure by a recipient as provided in subsection (a) only to the extent that the recipient complied with any Federal share requirements applicable to the program for the fiscal year for which the funds were appropriated.”.

(b) **TECHNICAL AMENDMENT.**—The table of contents relating to the Act is amended by inserting after the item relating to section 18 the following:

“Sec. 19. Carryover.”.

**SEC. 110. CLIENT ASSISTANCE INFORMATION.**

(a) **IN GENERAL.**—The Act is amended by inserting after section 19 (as added by section 109(a)) the following new section:

**“SEC. 20. CLIENT ASSISTANCE INFORMATION.**

29 USC 718a.

“All programs, including community rehabilitation programs, and projects, that provide services to individuals with disabilities under this Act shall advise such individuals, or the parents, family members, guardians, advocates, or authorized representatives of the individuals, of the availability and purposes of the client assistance program under section 112, including information on means of seeking assistance under such program.”.

(b) **TECHNICAL AMENDMENT.**—The table of contents relating to the Act is amended by inserting after the item relating to section 19 (as added by section 109(b)) the following:

“Sec. 20. Client assistance information.”.

**SEC. 111. TRADITIONALLY UNDERSERVED POPULATIONS.**

(a) **IN GENERAL.**—The Act is amended by inserting after section 20 (as added by section 110(a)) the following section:

**“SEC. 21. TRADITIONALLY UNDERSERVED POPULATIONS.**

29 USC 718b.

“(a) **FINDINGS.**—With respect to the programs authorized in titles II through VIII, the Congress finds as follows:

“(1) **RACIAL PROFILE.**—The racial profile of America is rapidly changing. While the rate of increase for white Americans



is 3.2 percent, the rate of increase for racial and ethnic minorities is much higher: 38.6 percent for Latinos, 14.6 percent for African-Americans, and 40.1 percent for Asian-Americans and other ethnic groups. By the year 2000, the Nation will have 260,000,000 people, one of every three of whom will be either African-American, Latino, or Asian-American.

"(2) RATE OF DISABILITY.—Ethnic and racial minorities tend to have disabling conditions at a disproportionately high rate. The rate of work-related disability for American Indians is about one and one-half times that of the general population. African-Americans are also one and one-half times more likely to be disabled than whites and twice as likely to be severely disabled.

"(3) INEQUITABLE TREATMENT.—Patterns of inequitable treatment of minorities have been documented in all major junctures of the vocational rehabilitation process. As compared to white Americans, a larger percentage of African-American applicants to the vocational rehabilitation system is denied acceptance. Of applicants accepted for service, a larger percentage of African-American cases is closed without being rehabilitated. Minorities are provided less training than their white counterparts. Consistently, less money is spent on minorities than on their white counterparts.

"(4) RECRUITMENT.—Recruitment efforts within vocational rehabilitation at the level of pre-service training, continuing education, and in-service training must focus on bringing larger numbers of minorities into the profession in order to provide appropriate practitioner knowledge, role models, and sufficient manpower to address the clearly changing demography of vocational rehabilitation.

"(b) OUTREACH TO MINORITIES.—

"(1) POLICY.—The Commissioner shall develop a policy to mobilize the resources of the Nation to prepare minorities for careers in vocational rehabilitation, independent living, and related services.

"(2) FOCUS.—This policy shall focus on—

"(A) the recruitment of minorities into the field of vocational rehabilitation counseling and related disciplines; and

"(B) financially assisting Historically Black Colleges and Universities, Hispanic-serving institutions of higher education, and other institutions of higher education whose minority enrollment is at least 50 percent to prepare students for vocational rehabilitation and related service careers.

"(3) PLAN.—

"(A) DEVELOPMENT.—The Commissioner shall develop a plan to provide outreach services and other related activities (such as cooperative efforts) to the entities described in subparagraph (B) in order to enhance the capacity and increase the participation of such entities in competitions for grants, contracts, and cooperative agreements under titles I through VIII.

"(B) ENTITIES.—The entities referred to in subparagraph (A) are—

"(i) Historically Black Colleges and Universities, Hispanic-serving institutions of higher education, and

other institutions of higher education whose minority student enrollment is at least 50 percent;

“(ii) nonprofit and for-profit agencies at least 51 percent owned or controlled by one or more minority individuals; and

“(iii) underrepresented populations.

“(C) FUNDING.—For the purpose of implementing the plan required in subparagraph (A), the Commissioner shall, for each of the fiscal years 1993 through 1997, expend 1 percent of the funds appropriated for the fiscal year involved for carrying out programs authorized in titles II through VIII of this Act, except programs authorized under title IV or V.

“(3) EFFORT.—The Commissioner shall exercise the utmost authority, resourcefulness, and diligence to meet the requirements of this section.

“(4) REPORT.—

“(A) IN GENERAL.—Not later than January 31 of each year, starting with fiscal year 1994, the Commissioner shall prepare and submit to Congress a final report on the progress toward meeting the goals of this section during the preceding fiscal year.

“(B) CONTENTS.—The report shall include—

“(i) a full explanation of any progress toward meeting the goals of this section; and

“(ii) a plan to meet the goals, if necessary.

“(5) DEMONSTRATION.—In awarding grants, contracts, or cooperative agreements under titles I, II, III, VI, VII, and VIII, and section 509, the Commissioner and the Director of the National Institute on Disability and Rehabilitation Research, where appropriate, shall require applicants to demonstrate how they will address, in whole or in part, the needs of individuals with disabilities from minority backgrounds.”.

(b) TECHNICAL AMENDMENT.—The table of contents relating to the Act is amended by inserting after the item relating to section 20 (as added by section 110(b)) the following item:

“Sec. 21. Traditionally underserved populations.”.

## **Subtitle B—Vocational Rehabilitation Services**

### **SEC. 121. POLICY; AUTHORIZATION OF APPROPRIATIONS.**

(a) FINDINGS; PURPOSE; POLICY.—Section 100 (29 U.S.C. 720) is amended—

(1) in the section heading, by striking “PURPOSE” and inserting “POLICY”; and

(2) by striking subsection (a) and inserting the following:

“(a)(1) Congress finds that—

“(A) work—

“(i) is a valued activity, both for individuals and society; and

“(ii) fulfills the need of an individual to be productive, promotes independence, enhances self-esteem, and allows for participation in the mainstream of life in America;

“(B) as a group, individuals with disabilities experience staggering levels of unemployment and poverty;

“(C) individuals with disabilities, including individuals with the most severe disabilities, have demonstrated their ability to achieve gainful employment in integrated settings if appropriate services and supports are provided;

“(D) reasons for the significant number of individuals with disabilities not working, or working at a level not commensurate with their abilities and capabilities, include—

“(i) discrimination;

“(ii) lack of accessible and available transportation;

“(iii) fear of losing health coverage under the medicare and medicaid programs under titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq. and 1396 et seq.) or fear of losing existing private health insurance; and

“(iv) lack of education, training, and supports to meet job qualification standards necessary to enter or retain or advance in employment;

“(E) enforcement of title V and of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) holds the promise of ending discrimination for individuals with disabilities; and

“(F) the provision of vocational rehabilitation services can enable individuals with disabilities, including individuals with the most severe disabilities, to pursue meaningful careers by securing gainful employment commensurate with their abilities and capabilities.

“(2) The purpose of this title is to assist States in operating a comprehensive, coordinated, effective, efficient, and accountable program of vocational rehabilitation that is designed to assess, plan, develop, and provide vocational rehabilitation services for individuals with disabilities, consistent with their strengths, resources, priorities, concerns, abilities, and capabilities, so that such individuals may prepare for and engage in gainful employment.

“(3) It is the policy of the United States that such a program shall be carried out in a manner consistent with the following principles:

“(A) Individuals with disabilities, including individuals with the most severe disabilities, are generally presumed to be capable of engaging in gainful employment and the provision of individualized vocational rehabilitation services can improve their ability to become gainfully employed.

“(B) Individuals with disabilities must be provided the opportunities to obtain gainful employment in integrated settings.

“(C) Individuals with disabilities must be active participants in their own rehabilitation programs, including making meaningful and informed choices about the selection of their vocational goals and objectives and the vocational rehabilitation services they receive.

“(D) Families and natural supports can play an important role in the success of a vocational rehabilitation program, if the individual with a disability requests, desires, or needs such supports.

“(E) Qualified vocational rehabilitation counselors, other qualified rehabilitation personnel, and other qualified personnel

facilitate the accomplishment of the employment goals and objectives of an individual.

“(F) Individuals with disabilities and their advocates are full partners in the vocational rehabilitation program and must be involved on a regular basis and in a meaningful manner with respect to policy development and implementation.

“(G) Accountability measures must facilitate and not impede the accomplishment of the goals and objectives of the program, including providing vocational rehabilitation services to, among others, individuals with the most severe disabilities.”.

(b) REAUTHORIZATION.—Section 100 (29 U.S.C. 720) is amended—

(1) by amending subsection (b) to read as follows:

“(b)(1) For the purpose of making grants to States under part B (other than grants under section 112) to assist States in meeting the costs of vocational rehabilitation services provided in accordance with State plans under section 101, there are authorized to be appropriated such sums as may be necessary for fiscal years 1993 through 1997, except that the amount to be appropriated for a fiscal year shall not be less than the amount of the appropriation under this subsection for the immediately preceding fiscal year, plus the amount of the Consumer Price Index addition determined under subsection (c) for the immediately preceding fiscal year.

“(2) There are authorized to be appropriated to carry out part C such sums as may be necessary for fiscal years 1993 through 1997.”;

Appropriation  
authorization.

(2) in subparagraphs (A) and (B) of subsection (c)(2), by striking “authorized to be appropriated under subsection (b)(1) for the subsequent fiscal year is the amount authorized to be” each place the term appears and inserting “to be appropriated under subsection (b) for the subsequent fiscal year shall be at least the amount”; and

(3) in subsection (d)(1)(B)—

(A) by striking “1992” the first place the term appears and inserting “1997”; and

(B) by striking “or the amount authorized to be appropriated for such program for fiscal year 1992, whichever is higher,”.

(c) TABLE OF CONTENTS.—The table of contents relating to the Act is amended by striking the item relating to section 100 and inserting the following:

“Sec. 100. Declaration of policy; authorization of appropriations.”.

#### SEC. 122. STATE PLANS.

(a) PERIOD.—The first sentence of section 101(a) (29 U.S.C. 721(a)) is amended by striking “for a three-year period” and all that follows and inserting the following: “for a 3-year period, or shall submit the plan on such date, and at such regular intervals, as the Secretary may determine to be appropriate to coincide with the intervals at which the State submits State plans under other Federal laws, such as part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.). In order to be eligible to participate in programs under this title, a State, upon the request of the Commissioner, shall make such annual revisions in the plan as may be necessary.”.

(b) STATE AGENCY.—Section 101(a)(1)(A) (29 U.S.C. 721(a)(1)(A)) is amended—

(1) by striking "and" at the end of clause (i); and  
 (2) by inserting before the semicolon at the end the following: ", and (iii) in the case of American Samoa, the appropriate State agency shall be the Governor of American Samoa".

(c) PLANS; POLICIES; METHODS.—Section 101(a)(5) (29 U.S.C. 721(a)(5)) is amended—

(1) in subparagraph (A)—

(A) by striking "existing rehabilitation facilities to the maximum extent feasible;" and inserting "community rehabilitation programs to the maximum extent feasible, an explanation of the methods by which the State will provide vocational rehabilitation services to all individuals with disabilities within the State who are eligible for such services,"; and

(B) in clause (ii), by inserting before "and shall be consistent" the following: "in accordance with criteria established by the State,";

(2) in subparagraph (B), by inserting before the semicolon the following: ", including the use of funds under part C of title VI to supplement funds under part B of this title to pay for the cost of services leading to supported employment"; and

(3) by striking subparagraph (C) and inserting the following:

"(C) describe—

"(i) how a broad range of rehabilitation technology services will be provided at each stage of the rehabilitation process;

"(ii) how a broad range of such rehabilitation technology services will be provided on a statewide basis; and

"(iii) the training that will be provided to vocational rehabilitation counselors, client assistance personnel, and other related services personnel;"

(d) PROGRAM COMPLIANCE.—Section 101(a)(6)(B) (29 U.S.C. 721(a)(6)(B)) is amended by inserting before the semicolon at the end the following: ", with section 504 of this Act, and with the Americans with Disabilities Act of 1990".

(e) PERSONNEL.—Section 101(a)(7) (29 U.S.C. 721(a)(7)) is amended to read as follows:

"(7)(A) include a description (consistent with the purposes of this Act) of a comprehensive system of personnel development, which shall include—

"(i) a description of the procedures and activities the State agency will undertake to ensure an adequate supply of qualified State rehabilitation professionals and paraprofessionals for the designated State unit, including the development and maintenance of a system for determining, on an annual basis—

"(I) the number and type of personnel that are employed by the State agency in the provision of vocational rehabilitation services, including ratios of counselors to clients; and

"(II) the number and type of personnel needed by the State, and a projection of the numbers of such personnel that will be needed in 5 years, based on projections of the number of individuals to be served, the number of such personnel who are expected to retire or leave the field, and other relevant factors;

“(ii) where appropriate, a description of the manner in which activities will be undertaken through this section to coordinate the system of personnel development with personnel development under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.);

“(iii) a description of the development and maintenance of a system of determining, on an annual basis, information on the institutions of higher education within the State that are preparing rehabilitation professionals, including—

“(I) the numbers of students enrolled in such programs;

and

“(II) the number who graduated with certification or licensure, or with credentials to qualify for certification or licensure, during the past year;

“(iv) a description of the development, updating, and implementation of a plan that—

“(I) will address the current and projected vocational rehabilitation services personnel training needs for the designated State unit; and

“(II) provides for the coordination and facilitation of efforts between the designated State unit and institutions of higher education (as defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))) and professional associations to recruit, prepare and retain qualified personnel, including personnel from minority backgrounds, and personnel who are individuals with disabilities; and

“(v) a description of the procedures and activities the State agency will undertake to ensure that all personnel employed by the designated State unit are appropriately and adequately trained and prepared, including—

“(I) a system for the continuing education of rehabilitation professionals and paraprofessionals within the designated State unit, particularly with respect to rehabilitation technology; and

“(II) procedures for acquiring and disseminating to rehabilitation professionals and paraprofessionals within the designated State unit significant knowledge from research and other sources, including procedures for providing training regarding the amendments to the Rehabilitation Act of 1973 made by the Rehabilitation Act Amendments of 1992;

“(B) set forth policies and procedures relating to the establishment and maintenance of standards to ensure that personnel, including professionals and paraprofessionals, needed within the State agency to carry out this part are appropriately and adequately prepared and trained, including—

“(i) the establishment and maintenance of standards that are consistent with any national or State approved or recognized certification, licensing, registration, or other comparable requirements that apply to the area in which such personnel are providing vocational rehabilitation services; and

“(ii) to the extent such standards are not based on the highest requirements in the State applicable to a specific profession or discipline, the steps the State is taking to require the retraining or hiring of personnel within the designated

State unit that meet appropriate professional requirements in the State; and

“(C) contain provisions relating to the establishment and maintenance of minimum standards to ensure the availability of personnel within the designated State unit, to the maximum extent feasible, trained to communicate in the native language or mode of communication of the client;”.

(f) AVAILABILITY OF COMPARABLE SERVICES AND BENEFITS.—Section 101(a)(8) (29 U.S.C. 721(a)(8)) is amended by striking “except that” and all that follows and inserting “except that such a determination shall not be required—

“(A) if the determination would delay the provision of such services to any individual at extreme medical risk; or

“(B) prior to the provision of such services if an immediate job placement would be lost due to a delay in the provision of such comparable benefits;”.

(g) USE OF EXISTING INFORMATION.—Section 101(a)(9) (29 U.S.C. 721(a)(9)) is amended—

(1) by redesignating subparagraphs (A) through (C) as subparagraphs (B) through (D), respectively;

(2) by striking “(9) provide that” and inserting “(9) provide that—

“(A) to the maximum extent appropriate, and consistent with the requirements of this Act, existing information available from other programs and providers (particularly information used by education officials and the Social Security Administration) and information that can be provided by the individual with a disability or the family of the individual shall be used for purposes of determining eligibility for vocational rehabilitation services and for choosing rehabilitation goals, objectives, and services;”;

(3) in subparagraphs (B), (C), and (D) (as so redesignated by paragraph (1) of this subsection), by indenting the subparagraphs to the same measure as subparagraph (A); and

(4) in subparagraphs (B) and (C) (as so redesignated), by striking the comma at the end and inserting a semicolon.

(h) REPORTS.—Section 101(a)(10) (29 U.S.C. 721(a)(10)) is amended—

(1) by inserting “(A)” after the paragraph designation;

(2) in subparagraph (A) (as so designated by paragraph (1) of this subsection), by adding “and” after the semicolon at the end; and

(3) by adding at the end the following subparagraph:

“(B) provide that reports under subparagraph (A) will include information on—

“(i) the number of such individuals who are evaluated and the number rehabilitated;

“(ii) the costs of administration, counseling, provision of direct services, development of community rehabilitation programs, and other functions carried out under this Act; and

“(iii) the utilization by such individuals of other programs pursuant to paragraph (11);”.

(i) INTERAGENCY COOPERATION.—Section 101(a)(11) (29 U.S.C. 721(a)(11)) is amended—

(1) by striking “(11) provide for entering into cooperative arrangements” and inserting “(11)(A) provide for interagency cooperation”;

(2) in subparagraph (A) (as so designated by paragraph (1) of this subsection) by striking “, and the Carl D. Perkins Vocational Education Act;” and inserting “(20 U.S.C. 1400 et seq.), the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.), and the Act entitled ‘An Act to create a Committee on Purchases of Blind-made Products, and for other purposes’, approved June 25, 1938 (commonly known as the Wagner-O’Day Act; 41 U.S.C. 46 et seq.);” and

(3) by adding at the end the following:

“(B) provide that cooperation under subparagraph (A) shall include, to the extent practicable, means for providing training to staff of the agencies described in subparagraph (A) as to the availability and benefits of, and eligibility standards for, vocational rehabilitation services, in order to enhance the opportunity of individuals receiving the services described in subparagraph (A) to obtain vocational rehabilitation services; and

“(C) in providing for interagency cooperation under subparagraph (A), provide for such cooperation by means including, if appropriate—

“(i) establishing interagency working groups; and

“(ii) entering into formal interagency cooperative agreements that—

“(I) identify policies, practices, and procedures that can be coordinated among the agencies (particularly definitions, standards for eligibility, the joint sharing and use of evaluations and assessments, and procedures for making referrals);

“(II) identify available resources and define the financial responsibility of each agency for paying for necessary services (consistent with State law) and procedures for resolving disputes between agencies; and

“(III) include all additional components necessary to ensure meaningful cooperation and coordination;”.

(j) COMMUNITY REHABILITATION PROGRAMS.—Section 101(a)(12) (29 U.S.C. 721(a)(12)) is amended—

(1) in subparagraph (A), by striking “facilities” and inserting “programs”; and

(2) in subparagraph (B), by striking “rehabilitation facilities” and inserting “community rehabilitation programs”.

(k) CONTINUING STATEWIDE STUDIES.—Section 101(a) (29 U.S.C. 721(a)) is amended—

(1) in the matter preceding paragraph (16) by striking “provide for continuing” and inserting “(15) provide for continuing”; and

(2) in paragraph (15) (as so designated by paragraph (1) of this subsection)—

(A) in subparagraph (A), by striking “conducting”; and

(B) in subparagraph (B)—

(i) by striking “capacity and condition of rehabilitation facilities, plans for improving such facilities,” and inserting “capacity and effectiveness of community rehabilitation programs, plans for improving such programs;”; and

(ii) by striking “and” after the semicolon at the end;



(C) in subparagraph (C), by inserting “and” after the semicolon at the end; and

(D) by adding at the end the following subparagraph:“(D) outreach procedures to identify and serve individuals with disabilities who are minorities and individuals with disabilities who have been unserved or underserved by the vocational rehabilitation system.”.

(I) REVIEW AND EFFORTS.—Section 101(a)(16) (29 U.S.C. 721(a)(16)) is amended to read as follows:

“(16) provide for—

“(A)(i) at least annual review and reevaluation of the status of each individual with a disability placed in an extended employment setting in a community rehabilitation program (including a workshop) or other employment under section 14(c) of the Fair Labor Standards Act (29 U.S.C. 214(c)), to determine the interests, priorities, and needs of the individual for employment, or training for competitive employment, in an integrated setting in the labor market; and

“(ii) input into the review and reevaluation by the individual with a disability, or, in an appropriate case, a parent, a family member, a guardian, an advocate, or an authorized representative, of the individual, if the individual requests, desires, or needs assistance;

“(B) maximum efforts, including the identification of vocational rehabilitation services, reasonable accommodations, and other support services, to enable such an individual to benefit from training or to be placed in employment in an integrated setting; and

“(C) services designed to promote movement from extended employment to integrated employment, including supported employment, independent living, and community participation.”.

(m) CONSTRUCTION.—Section 101(a)(17) (29 U.S.C. 721(a)(17)) is amended—

(1) in the matter preceding subparagraph (A), by striking “where such State plan includes provisions for the construction of rehabilitation facilities” and inserting “if, under special circumstances, the State plan includes provisions for the construction of facilities for community rehabilitation programs”; and

(2) in subparagraph (C), by striking “rehabilitation facilities” and inserting “facilities for community rehabilitation programs”.

(n) VIEWS CONSIDERED.—Section 101(a)(18) (29 U.S.C. 721(a)(18)) is amended by striking “and providers of vocational rehabilitation services” and inserting “providers of vocational rehabilitation services, and the Director of the client assistance program under section 112”.

(o) STRATEGIC PLAN.—Section 101(a)(19) (29 U.S.C. 721(a)(19)) is amended by inserting before the semicolon the following: “, and for developing and updating the strategic plan required under part C”.

(p) PUBLIC COMMENT.—Section 101(a)(23) (29 U.S.C. 721(a)(23)) is amended—

(1) in subparagraph (A), by inserting after “comment on the State plan” the following: “before development of the plan by the State”;

(2) by striking “and” before “(B)”; and

(3) by inserting before the semicolon the following: “, and (C) provide satisfactory assurances that the State agency will consult with the Director of the client assistance program under section 112 in the formulation of policies governing the provision of vocational rehabilitation services consistent with the State plan and other revisions”.

(q) GOALS AND PUBLIC EDUCATION.—Section 101(a)(24) (29 U.S.C. 721(a)(24)) is amended to read as follows:

“(24) contain plans, policies, and procedures to be followed (including entering into a formal interagency cooperative agreement, in accordance with paragraph (11)(C)(ii), with education officials responsible for the provision of a free appropriate public education to students who are individuals with disabilities) that are designed to—

“(A) facilitate the development and accomplishment of—

“(i) long-term rehabilitation goals;

“(ii) intermediate rehabilitation objectives; and

“(iii) goals and objectives related to enabling a student to live independently before the student leaves a school setting,

to the extent the goals and objectives described in clauses (i) through (iii) are included in an individualized education program of the student, including the specification of plans for coordination with the educational agencies in the provision of transition services;

“(B) facilitate the transition from the provision of a free appropriate public education under the responsibility of an educational agency to the provision of vocational rehabilitation services under the responsibility of the designated State unit, including the specification of plans for coordination with educational agencies in the provision of transition services authorized under section 103(a)(14) to an individual, consistent with the individualized written rehabilitation program of the individual; and

“(C) provide that such plans, policies, and procedures will address—

“(i) provisions for determining State lead agencies and qualified personnel responsible for transition services;

“(ii) procedures for outreach to and identification of youth in need of such services; and

“(iii) a timeframe for evaluation and followup of youth who have received such services;”.

(r) USE OF SUPPORTED EMPLOYMENT FUNDS.—Section 101(a)(25) (29 U.S.C. 721(a)(25)) is amended to read as follows:

“(25) provide assurances satisfactory to the Secretary that the State has an acceptable plan for carrying out part C of title VI, including the use of funds under that part to supplement funds under part B of this title for the cost of services leading to supported employment;”.

(s) ADDITIONAL STATE PLAN REQUIREMENTS.—Section 101(a) (29 U.S.C. 721(a)) is amended by adding at the end the following new paragraphs:

“(26) describe the manner in which on-the-job or other related personal assistance services will be provided to assist individuals with disabilities while the individuals are receiving vocational rehabilitation services;

"(27) describe the manner in which cooperative agreements with private nonprofit vocational rehabilitation service providers will be established;

"(28) identify the needs and utilization of community rehabilitation programs under the Act commonly known as the Wagner-O'Day Act (41 U.S.C. 46 et seq.);

"(29) describe the manner in which individuals with disabilities will be given choice and increased control in determining their vocational rehabilitation goals and objectives;

"(30) describe the manner in which students who are individuals with disabilities and who are not in special education programs can access and receive vocational rehabilitation services, where appropriate;

"(31) describe the manner in which assistive technology devices and services will be provided, or worksite assessments will be made as part of the assessment for determining eligibility and vocational rehabilitation needs of an individual;

"(32) describe the manner in which the State will modify the policies and procedures of the State based on consumer satisfaction surveys conducted by the State Rehabilitation Advisory Council;

"(33) provide for coordination and working relationships with the Statewide Independent Living Council established under section 705 and independent living centers within the State;

"(34) provide satisfactory assurances to the Commissioner that the State—

"(A) has developed and implemented a strategic plan for expanding and improving vocational rehabilitation services for individuals with disabilities on a statewide basis in accordance with part C of this title; and

"(B) will use at least 1.5 percent of the allotment of the State under part B for the uses described in section 123;

"(35)(A) describe how the system for evaluating the performance of rehabilitation counselors, coordinators, and other personnel used in the State facilitates the accomplishment of the purpose and policy of this title, including the policy of serving, among others, individuals with the most severe disabilities; and

"(B) provide satisfactory assurances that the system in no way impedes such accomplishment; and

"(36) provide satisfactory assurances to the Commissioner that—

"(A)(i) the State has established a State Rehabilitation Advisory Council that meets the criteria set forth in section 105;

"(ii) the designated State agency and the designated State unit seek and seriously consider on a regular and ongoing basis advice from the Council regarding the development and implementation of the State plan and the strategic plan and amendments to the plans, and other policies and procedures of general applicability pertaining to the provision of vocational rehabilitation services in the State;

"(iii) the designated State agency includes, in its State plan or an amendment to the plan, a summary of advice provided by the Council, including recommendations from the annual report of the Council, the survey of consumer satisfaction, and other reports prepared by the Council, and the response of the designated State agency to such advice and

recommendations (including explanations with respect to advice and recommendations that were rejected); and

“(iv) the designated State unit transmits to the Council—

“(I) all plans, reports, and other information required under the Act to be submitted to the Commissioner; Reports.

“(II) all policies, practices, and procedures of general applicability provided to or used by rehabilitation personnel; and

“(III) copies of due process hearing decisions, which shall be transmitted in such a manner as to preserve the confidentiality of the participants in the hearings;

“(B) an independent commission—

“(i) is responsible under State law for overseeing the operation of the designated State agency;

“(ii) is consumer-controlled by persons who—

“(I) are individuals with physical or mental impairments that substantially limit major life activities; and

“(II) represent individuals with a broad range of disabilities;

“(iii) includes individuals representing family members, advocates, and authorized representatives of individuals with mental impairments; and

“(iv) undertakes the function set forth in section 105(c)(3); or

“(C) in the case of a State that, under section 101(a)(1)(A)(i), designates a State agency to administer the part of the State plan under which vocational rehabilitation services are provided for individuals who are blind and designates a separate State agency to administer the remainder of the State plan—

“(i) an independent commission is responsible under State law for overseeing both such agencies and meets the requirements of subparagraph (B)(ii); or

“(ii)(I) an independent commission is responsible under State law for overseeing the first agency described in this subparagraph and meets the requirements of subparagraph (B)(ii); and

“(II) an independent commission is responsible under State law for overseeing the second State agency described in this subparagraph and is required by such State law to be consumer-controlled by individuals who are blind and to represent individuals who are blind.”.

(t) TECHNICAL AMENDMENT.—Section 101 (29 U.S.C. 721) is amended by striking subsections (c) and (d).

#### SEC. 123. DETERMINATIONS OF ELIGIBILITY AND INDIVIDUALIZED WRITTEN REHABILITATION PROGRAM.

(a) ELIGIBILITY.—Section 102(a) (29 U.S.C. 722(a)) is amended to read as follows:

“(a)(1) An individual is eligible for assistance under this title if the individual—

“(A) is an individual with a disability under section 7(8)(A); and

“(B) requires vocational rehabilitation services to prepare for, enter, engage in, or retain gainful employment.

“(2) An individual who has a disability or is blind as determined pursuant to title II or title XVI of the Social Security Act (42 U.S.C. 401 et seq. and 1381 et seq.) shall be considered to have—

"(A) a physical or mental impairment which for such individual constitutes or results in a substantial impediment to employment under section 7(8)(A)(i); and

"(B) a severe physical or mental impairment which seriously limits one or more functional capacities in terms of an employment outcome under section 7(15)(A)(i).

"(3) Determinations made by officials of other agencies, particularly the education officials described in section 101(a)(24), regarding whether an individual satisfies one or more factors relating to whether an individual is an individual with a disability under section 7(8)(A) or an individual with a severe disability under section 7(15)(A), shall be used (to the extent appropriate and available and consistent with the requirements under this Act) for making such determinations under this Act.

"(4)(A) It shall be presumed that an individual can benefit in terms of an employment outcome from vocational rehabilitation services under section 7(8)(A)(ii), unless the designated State unit can demonstrate by clear and convincing evidence that such individual is incapable of benefiting from vocational rehabilitation services in terms of an employment outcome.

"(B) In making the demonstration required under subparagraph (A) with respect to cases in which the issue concerns the severity of the disability of an individual, the designated State unit shall first conduct an extended evaluation by providing the services described in subparagraph (C)(iii)(I), and conducting the assessment described in subparagraph (C)(iii)(II), of section 7(22).

"(5)(A) The designated State unit shall determine whether an individual is eligible for vocational rehabilitation services under this title within a reasonable period of time, not to exceed 60 days after the individual has submitted an application to receive the services unless—

"(i) the designated State unit notifies the individual that exceptional and unforeseen circumstances beyond the control of the agency preclude the agency from completing the determination within the prescribed time and the individual agrees that an extension of time is warranted; or

"(ii) such an extended evaluation is required.

"(B) The determination of eligibility shall be based on the review of existing data described in section 7(22)(A)(i), and, to the extent necessary, the preliminary assessment described in section 7(22)(A)(iii).

"(6) The designated State unit shall ensure that a determination of ineligibility made with respect to an individual prior to the initiation of an individualized written rehabilitation program, based on the review, and to the extent necessary, the preliminary assessment, shall include specification of—

"(A) the reasons for such a determination;

"(B) the rights and remedies available to the individual, including, if appropriate, recourse to the processes set forth in subsections (b)(2) and (d); and

"(C) the availability of services provided by the client assistance program under section 112 to the individual."

(b) INDIVIDUALIZED WRITTEN REHABILITATION PROGRAM.—Section 102(b) (29 U.S.C. 722(b)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1)(A) As soon as a determination has been made that an individual is eligible for vocational rehabilitation services, the des-

ignated State unit shall complete an assessment for determining eligibility and vocational rehabilitation needs described in subparagraphs (B) and (C) of section 7(22) (if such assessment is necessary) and ensure that—

“(i) an individualized written rehabilitation program is jointly developed, agreed upon, and signed by—

“(I) such eligible individual (or, in an appropriate case, a parent, a family member, a guardian, an advocate, or an authorized representative, of such individual); and

“(II) the vocational rehabilitation counselor or coordinator; and

“(ii) such program meets the requirements set forth in subparagraph (B).

“(B) Each individualized written rehabilitation program shall—

“(i) be designed to achieve the employment objective of the individual, consistent with the unique strengths, resources, priorities, concerns, abilities, and capabilities, of the individual;

“(ii) include a statement of the long-term rehabilitation goals based on the assessment for determining eligibility and vocational rehabilitation needs described in section 7(22)(B), including an assessment of career interests, for the individual, which goals shall, to the maximum extent appropriate, include placement in integrated settings;

“(iii) include a statement of the intermediate rehabilitation objectives related to the attainment of such goals, determined through such assessment carried out in the most individualized and integrated setting (consistent with the informed choice of the individual);

“(iv)(I) include a statement of the specific vocational rehabilitation services to be provided, and the projected dates for the initiation and the anticipated duration of each such service;

“(II) if appropriate, include a statement of the specific rehabilitation technology services to be provided to assist in the implementation of intermediate rehabilitation objectives and long-term rehabilitation goals for the individual; and

“(III) if appropriate, include a statement of the specific on-the-job and related personal assistance services to be provided to the individual, and, if appropriate and desired by the individual, the training in managing, supervising, and directing personal assistance services to be provided to the individual;

“(v) include an assessment of the expected need for postemployment services and, if appropriate, extended services;

“(vi) provide for—

“(I) a reassessment of the need for postemployment services and, if appropriate, extended services prior to the point of successful rehabilitation, in accordance with this subsection; and

“(II) if appropriate, the development of a statement detailing how such services shall be provided or arranged through cooperative agreements with other service providers;

“(vii) include objective criteria and an evaluation procedure and schedule for determining whether such goals and objectives are being achieved;

“(viii) include the terms and conditions under which goods and services described above will be provided to the individual in the most integrated settings;

“(ix) identify the entity or entities that will provide the vocational rehabilitation services and the process used to provide or procure such services;

“(x) include a statement by the individual, in the words of the individual (or, if appropriate, in the words of a parent, a family member, a guardian, an advocate, or an authorized representative, of the individual), describing how the individual was informed about and involved in choosing among alternative goals, objectives, services, entities providing such services, and methods used to provide or procure such services;

“(xi) include, if necessary, an amendment specifying—

“(I) the reasons that an individual for whom a program has been prepared is no longer eligible for vocational rehabilitation services; and

“(II) the rights and remedies available to such an individual including, if appropriate, recourse to the processes set forth in subsections (b)(2) and (d);

“(xii) set forth the rights and remedies available to such an individual including, if appropriate, recourse to the processes set forth in subsections (b)(2) and (d);

“(xiii) provide a description of the availability of a client assistance program established pursuant to section 112;

“(xiv) to the maximum extent possible, be provided in the native language, or mode of communication, of the individual, or, in an appropriate case, of a parent, a family member, a guardian, an advocate, or an authorized representative, of such individual; and

“(xv) include information identifying other related services and benefits provided pursuant to any Federal, State, or local program that will enhance the capacity of the individual to achieve the vocational objectives of the individual.

“(C) The designated State unit shall furnish a copy of the individualized written rehabilitation program and amendments to the program to the individual with a disability or, in an appropriate case, a parent, a family member, a guardian, an advocate, or an authorized representative, of the individual.”; and

(2) in paragraph (2), by inserting after the first sentence the following: “Any revisions or amendments to the program resulting from such review shall be incorporated into or affixed to such program. Such revisions or amendments shall not take effect until agreed to and signed by the individual with a disability, or, if appropriate, by a parent, a family member, a guardian, an advocate, or an authorized representative, of such individual.”.

(c) TECHNICAL AMENDMENTS.—Section 102(c) (29 U.S.C. 722(c)) is amended—

(1) by striking “Commissioner shall also insure” and inserting “Director of the designated State unit shall also ensure”; and

(2) in paragraph (2), by striking “evaluation of rehabilitation potential” and inserting “assessment for determining eligibility and vocational rehabilitation needs described in subparagraphs (B) and (C) of section 7(22)”.

(d) SELECTION OF IMPARTIAL HEARING OFFICER.—Section 102(d) (29 U.S.C. 722(d)) is amended—

(1) in paragraph (2)—

(A) by inserting “(A)” after “(2)”; and

(B) by adding at the end the following:

“(B) The impartial hearing officer shall be selected to hear a particular case—

“(i) on a random basis; or

“(ii) by agreement between—

“(I) the Director of the designated State unit and the individual with a disability; or

“(II) in an appropriate case, the Director and a parent, a family member, a guardian, an advocate, or an authorized representative, of such individual.

“(C) The impartial hearing officer shall be selected from among a pool of qualified persons identified jointly by—

“(i) the designated State unit; and

“(ii)(I) the members of the State Rehabilitation Advisory Council established under section 105 who were appointed under one of subparagraphs (E) through (H) of section 105(b)(1);

“(II) the commission described in subparagraph (B) or (C)(i) of section 101(a)(36); or

“(III) the commissions described in section 101(a)(36)(C)(ii).”;

(2) in paragraph (3), by striking subparagraph (C) and inserting the following:

“(C)(i) The Director may not overturn or modify a decision of an impartial hearing officer, or part of such a decision, that supports the position of the individual unless the Director concludes, based on clear and convincing evidence, that the decision of the independent hearing officer is clearly erroneous on the basis of being contrary to Federal or State law, including policy.

“(ii) A final decision shall be made in writing by the Director and shall include a full report of the findings and the grounds for such decision. Reports.

“(iii) Upon making a final decision, the Director shall provide a copy of such decision to such individual.”;

(3) by redesignating paragraph (5) as paragraph (6); and

(4) by inserting after paragraph (4) the following:

“(5) Unless the individual with a disability so requests, or, in an appropriate case, a parent, a family member, a guardian, an advocate, or an authorized representative, of such individual so requests, pending a final determination of such hearing or other final resolution under this subsection, the designated State unit shall not institute a suspension, reduction, or termination of services being provided under the individualized written rehabilitation program, unless such services have been obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the individual with a disability.”.

#### SEC. 124. SCOPE OF VOCATIONAL REHABILITATION SERVICES.

(a) IN GENERAL.—Section 103(a) (29 U.S.C. 723(a)) is amended—

(1) by striking paragraph (1) and inserting the following:

“(1) an assessment for determining eligibility and vocational rehabilitation needs by qualified personnel, including,



if appropriate, an assessment by personnel skilled in rehabilitation technology;";

(2) in paragraph (2)—

(A) by striking "referral,";

(B) by inserting "work-related" before "placement services";

(C) by inserting before "followup," the following: "job search assistance, placement assistance, job retention services, personal assistance services, and";

(D) by striking "maintain or regain employment" and inserting "maintain, regain, or advance in employment"; and

(E) by striking ", and other services" and all that follows through "under this Act";

(3) in paragraph (3)—

(A) by striking "and services" and inserting "and such services"; and

(B) by striking ": *Provided, That*" and inserting ", except that";

(4) in paragraph (4)(A)—

(A) by striking "handicap to employment," and inserting "impediment to employment,"; and

(B) by striking "substantially reduce the handicap" and inserting "reduce such impediment to employment";

(5) in paragraph (5), by striking ", not exceeding the estimated cost of subsistence, during rehabilitation" and inserting "for additional costs incurred while participating in rehabilitation";

(6) by striking "and" at the end of paragraph (11);

(7) in paragraph (12), by striking "engineering services." and inserting "technology services,"; and

(8) by adding at the end the following:

"(13) referral and other services designed to assist individuals with disabilities in securing needed services from other agencies through agreements developed under section 101(a)(11), if such services are not available under this Act;

"(14) transition services that promote or facilitate the accomplishment of long-term rehabilitation goals and intermediate rehabilitation objectives;

"(15) on-the-job or other related personal assistance services provided while an individual with a disability is receiving services described in this section; and

"(16) supported employment services."

(b) ADDITIONAL VOCATIONAL REHABILITATION SERVICES.—Section 103(b) (29 U.S.C. 723(b)) is amended—

(1) in paragraph (1)—

(A) by striking "in the case" and inserting "In the case"; and

(B) by striking the semicolon at the end and inserting a period;

(2) in paragraph (2)—

(A) by striking "the construction" and all that follows through "rehabilitation facilities)" and inserting the following: "The establishment, development, or improvement of community rehabilitation programs, including, under special circumstances, the construction of a facility, and the

provision of other services (including services offered at community rehabilitation programs);

(B) by striking the semicolon at the end and inserting a period; and

(C) by adding at the end the following sentence: "Such programs shall be used to provide services that promote integration and competitive employment.";

(3) in paragraph (3)—

(A) by striking "the use of" and inserting "The use of"; and

(B) by striking "; and" and inserting a period;

(4) in paragraph (4), by striking "the use of" and inserting "The use of"; and

(5) by adding at the end the following paragraph:

"(5) Technical assistance and support services to businesses that are not subject to title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.) and that are seeking to employ individuals with disabilities."

#### SEC. 125. NON-FEDERAL SHARE FOR CONSTRUCTION.

Section 104 (29 U.S.C. 724) is amended—

(1) by striking "costs of construction or establishment of a public or nonprofit rehabilitation facility" and inserting "costs of establishment of a community rehabilitation program or construction, under special circumstances, of a facility for such a program"; and

(2) by striking "construction or establishment of a facility" and inserting "establishment of such a program or construction of such a facility".

#### SEC. 126. STATE REHABILITATION ADVISORY COUNCIL.

(a) AMENDMENT.—Part A of title I (29 U.S.C. 720 et seq.) is amended by adding at the end the following:

##### "SEC. 105. STATE REHABILITATION ADVISORY COUNCIL.

29 USC 725.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—Except as provided in subparagraph (B) or (C) of section 101(a)(36), to be eligible to receive financial assistance under this title a State shall establish a State Rehabilitation Advisory Council (referred to in this section as the 'Council') in accordance with this section.

"(2) SEPARATE AGENCY FOR INDIVIDUALS WHO ARE BLIND.—A State that designates a State agency to administer the part of the State plan under which vocational rehabilitation services are provided for individuals who are blind under section 101(a)(1)(A)(i) may establish a separate Council in accordance with this section to perform the duties of such a Council with respect to such State agency.

"(b) COMPOSITION AND APPOINTMENT.—

"(1) COMPOSITION.—The Council shall be composed of—

"(A) at least one representative of the Statewide Independent Living Council established under section 705, which representative may be the chairperson or other designee of the Council;

"(B) at least one representative of a parent training and information center established pursuant to section 631(c)(9) of the Individuals with Disabilities Education Act (20 U.S.C. 1431(c)(9));

"(C) at least one representative of the client assistance program established under section 112;

"(D) at least one vocational rehabilitation counselor, with knowledge of and experience with vocational rehabilitation programs, who shall serve as an ex officio, nonvoting member of the Council if the counselor is an employee of the designated State agency;

"(E) at least one representative of community rehabilitation program service providers;

"(F) four representatives of business, industry, and labor;

"(G) representatives of disability advocacy groups representing a cross section of—

"(i) individuals with physical, cognitive, sensory, and mental disabilities; and

"(ii) parents, family members, guardians, advocates, or authorized representatives of individuals with disabilities who have difficulty in representing themselves or are unable due to their disabilities to represent themselves; and

"(H) current or former applicants for, or recipients of, vocational rehabilitation services.

"(2) EX OFFICIO MEMBER.—The Director of the designated State unit shall be an ex officio member of the Council.

"(3) APPOINTMENT.—Members of the Council shall be appointed by the Governor or the appropriate entity within the State responsible for making appointments. The appointing authority shall select members after soliciting recommendations from representatives of organizations representing a broad range of individuals with disabilities and organizations interested in individuals with disabilities.

"(4) QUALIFICATIONS.—A majority of Council members shall be persons who are—

"(A) individuals with disabilities described in section 7(8)(B); and

"(B) not employed by the designated State unit.

"(5) CHAIRPERSON.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Council shall select a chairperson from among the membership of the Council.

"(B) DESIGNATION BY GOVERNOR.—In States in which the Governor does not have veto power pursuant to State law, the Governor shall designate a member of the Council to serve as the chairperson of the Council or shall require the Council to so designate such a member.

"(6) TERMS OF APPOINTMENT.—

"(A) LENGTH OF TERM.—Each member of the Council shall serve for a term of not more than 3 years, except that—

"(i) a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term; and

"(ii) the terms of service of the members initially appointed shall be (as specified by the appointing authority) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

"(B) NUMBER OF TERMS.—No member of the Council may serve more than two consecutive full terms.

"(7) VACANCIES.—Any vacancy occurring in the membership of the Council shall be filled in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members to execute the duties of the Council.

"(c) FUNCTIONS OF COUNCIL.—The Council shall—

"(1) review, analyze, and advise the designated State unit regarding the performance of the responsibilities of the unit under this title, particularly responsibilities relating to—

"(A) eligibility (including order of selection);

"(B) the extent, scope, and effectiveness of services provided; and

"(C) functions performed by State agencies that affect or that potentially affect the ability of individuals with disabilities in achieving rehabilitation goals and objectives under this title;

"(2) advise the designated State agency and the designated State unit, and, at the discretion of the designated State agency, assist in the preparation of applications, the State plan, the strategic plan and amendments to the plans, reports, needs assessments, and evaluations required by this title;

"(3) to the extent feasible, conduct a review and analysis of the effectiveness of, and consumer satisfaction with—

"(A) the functions performed by State agencies and other public and private entities responsible for performing functions for individuals with disabilities; and

"(B) vocational rehabilitation services—

"(i) provided, or paid for from funds made available, under this Act or through other public or private sources; and

"(ii) provided by State agencies and other public and private entities responsible for providing vocational rehabilitation services to individuals with disabilities;

"(4) prepare and submit an annual report to the Governor or appropriate State entity and the Commissioner on the status of vocational rehabilitation programs operated within the State, and make the report available to the public;

Reports.

"(5) coordinate with other councils within the State, including the Statewide Independent Living Council established under section 705, the advisory panel established under section 613(a)(12) of the Individuals with Disabilities Education Act (20 U.S.C. 1413(a)(12)), the State Planning Council described in section 124 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6024), and the State mental health planning council established under section 1916(e) of the Public Health Service Act (42 U.S.C. 300x-4(e));

"(6) advise the State agency designated under section 101(a)(1) and provide for coordination and the establishment of working relationships between the State agency and the Statewide Independent Living Council and centers for independent living within the State; and

"(7) perform such other functions, consistent with the purpose of this title, as the State Rehabilitation Advisory Council determines to be appropriate, that are comparable to the other functions performed by the Council.

**"(d) RESOURCES.—**

**"(1) PLAN.—**The Council shall prepare, in conjunction with the designated State unit, a plan for the provision of such resources, including such staff and other personnel, as may be necessary to carry out the functions of the Council under this section. The resource plan shall, to the maximum extent possible, rely on the use of resources in existence during the period of implementation of the plan.

**"(2) RESOLUTION OF DISAGREEMENTS.—**To the extent that there is a disagreement between the Council and the designated State unit in regard to the resources necessary to carry out the functions of the Council as set forth in this section, the disagreement shall be resolved by the Governor or appointing agency consistent with paragraph (1).

**"(3) SUPERVISION AND EVALUATION.—**Each Council shall, consistent with State law, supervise and evaluate such staff and other personnel as may be necessary to carry out its functions under this section.

**"(4) PERSONNEL CONFLICT OF INTEREST.—**While assisting the Council in carrying out its duties, staff and other personnel shall not be assigned duties by the designated State unit or any other agency or office of the State, that would create a conflict of interest.

**"(e) CONFLICT OF INTEREST.—**No member of the Council shall cast a vote on any matter that would provide direct financial benefit to the member or otherwise give the appearance of a conflict of interest under State law.

**"(f) MEETINGS.—**The Council shall convene at least 4 meetings a year in such places as it determines to be necessary to conduct Council business and conduct such forums or hearings as the Council considers appropriate. The meetings, hearings, and forums shall be publicly announced. The meetings shall be open and accessible to the general public unless there is a valid reason for an executive session.

**"(g) COMPENSATION AND EXPENSES.—**The Council may use funds appropriated under this title to reimburse members of the Council for reasonable and necessary expenses of attending Council meetings and performing Council duties (including child care and personal assistance services), and to pay compensation to a member of the Council, if such member is not employed or must forfeit wages from other employment, for each day the member is engaged in performing the duties of the Council.

**"(h) HEARINGS AND FORUMS.—**The Council is authorized to hold such hearings and forums as the Council may determine to be necessary to carry out the duties of the Council.

**"(i) USE OF EXISTING COUNCILS.—**To the extent that a State has established a Council before September 30, 1992, that is comparable to the Council described in this section, such established Council shall be considered to be in compliance with this section. Within 1 year after the date of enactment of the Rehabilitation Act Amendments of 1992, such State shall establish a Council that complies in full with this section."

**(b) TECHNICAL AMENDMENT.—**The table of contents relating to the Act is amended by inserting after the item relating to section 104 the following:

"Sec. 105. State Rehabilitation Advisory Council."

**SEC. 127. EVALUATION.**

(a) **AMENDMENT.**—Part A of title I (29 U.S.C. 720 et seq.) (as amended by section 126(a)), is further amended by adding at the end the following:

**“SEC. 106. EVALUATION STANDARDS AND PERFORMANCE INDICATORS. 29 USC 726.****“(a) ESTABLISHMENT.—**

**“(1) IN GENERAL.**—The Commissioner shall, not later than September 30, 1994, establish and publish evaluation standards and performance indicators for the vocational rehabilitation program under this title.

**“(2) MEASURES.**—The standards and indicators shall include outcome and related measures of program performance that facilitate and in no way impede the accomplishment of the purpose and policy of this title.

**“(3) COMMENT.**—The standards and indicators shall be developed with input from State vocational rehabilitation agencies, related professional and consumer organizations, recipients of vocational rehabilitation services, and other interested parties. The Commissioner shall publish in the Federal Register a notice of intent to regulate regarding the development of proposed standards and indicators. Proposed standards and indicators shall be published in the Federal Register for review and comment. Final standards and indicators shall be published in the Federal Register.

Federal  
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publication.

**“(b) COMPLIANCE.—**

**“(1) STATE REPORTS.**—In accordance with regulations established by the Secretary, each State shall report to the Commissioner after the end of each fiscal year the extent to which the State is in compliance with the standards and indicators.

**“(2) PROGRAM IMPROVEMENT.—**

**“(A) PLAN.**—If the Commissioner determines that the performance of any State is below established standards, the Commissioner shall provide technical assistance to the State and the State and the Commissioner shall jointly develop a program improvement plan outlining the specific actions to be taken by the State to improve program performance.

**“(B) REVIEW.**—The Commissioner shall—

**“(i)** review the program improvement efforts of the State on a biannual basis and, if necessary, request the State to make further revisions to the plan to improve performance; and

**“(ii)** continue to conduct such reviews and request such revisions until the State sustains satisfactory performance over a period of more than 1 year.

**“(c) WITHHOLDING.**—If the Commissioner determines that a State whose performance falls below the established standards has failed to enter into a program improvement plan, or is not complying substantially with the terms and conditions of such a program improvement plan, the Commissioner shall, consistent with subsections (c) and (d) of section 107, reduce or make no further payments to the State under this program, until the State has entered into an approved program improvement plan, or satisfies the Commissioner that the State is complying substantially with the terms and conditions of such a program improvement plan, as appropriate.

“(d) REPORT TO CONGRESS.—Beginning in fiscal year 1996, the Commissioner shall include in each annual report to the Congress under section 13 an analysis of program performance, including relative State performance, based on the standards and indicators.”.

(b) TECHNICAL AMENDMENT.—The table of contents relating to the Act is amended by inserting after the item relating to section 105 (as added by section 126(b)) the following:

“Sec. 106. Evaluation standards and performance indicators.”.

#### SEC. 128. MONITORING AND REVIEW.

(a) AMENDMENT.—Part A of title I (29 U.S.C. 720 et seq.) (as amended by sections 126(a) and 127(a)), is further amended by adding at the end the following:

29 USC 727.

#### “SEC. 107. MONITORING AND REVIEW.

“(a) IN GENERAL.—

“(1) DUTIES.—In carrying out the duties of the Commissioner under this title, the Commissioner shall—

“(A) provide for the annual review and periodic on-site monitoring of programs under this title; and

“(B) determine whether, in the administration of the State plan, a State is complying substantially with the provisions of such plan and with evaluation standards and performance indicators established under section 106.

“(2) PROCEDURES FOR REVIEWS.—In conducting reviews under this section the Commissioner shall consider, at a minimum—

“(A) State policies and procedures;

“(B) guidance materials;

“(C) decisions resulting from hearings conducted in accordance with due process;

“(D) strategic plans and updates;

“(E) plans and reports prepared under section 106(b);

“(F) consumer satisfaction surveys described in section 101(a)(32);

“(G) information provided by the State Rehabilitation Advisory Council established under section 105;

“(H) reports; and

“(I) budget and financial management data.

“(3) PROCEDURES FOR MONITORING.—In conducting monitoring under this section the Commissioner shall conduct—

“(A) on-site visits, including on-site reviews of records to verify that the State is following requirements regarding the order of selection set forth in section 101(a)(5)(A);

“(B) public hearings and other strategies for collecting information from the public;

“(C) meetings with the State Rehabilitation Advisory Council;

“(D) reviews of individual case files, including individualized written rehabilitation programs and ineligibility determinations; and

“(E) meetings with rehabilitation counselors and other personnel.

“(4) AREAS OF INQUIRY.—In conducting the review and monitoring, the Commissioner shall examine—

“(A) the eligibility process;

"(B) the provision of services, including, if applicable, the order of selection;

"(C) whether the personnel evaluation system described in section 101(a)(35) facilitates and does not impede the accomplishments of the program;

"(D) such other areas as may be identified by the public or through meetings with the State Rehabilitation Advisory Council; and

"(E) such other areas of inquiry as the Commissioner may consider appropriate.

"(b) TECHNICAL ASSISTANCE.—The Commissioner shall—

"(1) provide technical assistance to programs under this title regarding improving the quality of vocational rehabilitation services provided; and

"(2) provide technical assistance and establish a corrective action plan for a program under this title if the Commissioner finds that the program fails to comply substantially with the provisions of the State plan, or with evaluation standards or performance indicators established under section 106, in order to ensure that such failure is corrected as soon as practicable.

"(c) FAILURE TO COMPLY WITH PLAN.—

"(1) WITHHOLDING PAYMENTS.—Whenever the Commissioner, after providing reasonable notice and an opportunity for a hearing to the State agency administering or supervising the administration of the State plan approved under section 101, finds that—

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"(A) the plan has been so changed that it no longer complies with the requirements of section 101(a); or

"(B) in the administration of the plan there is a failure to comply substantially with any provision of such plan or with an evaluation standard or performance indicator established under section 106,

the Commissioner shall notify such State agency that no further payments will be made to the State under this title (or, in the discretion of the Commissioner, that such further payments will be reduced, in accordance with regulations the Commissioner shall prescribe, or that further payments will not be made to the State only for the projects under the parts of the State plan affected by such failure), until the Commissioner is satisfied there is no longer any such failure.

"(2) PERIOD.—Until the Commissioner is so satisfied, the Commissioner shall make no further payments to such State under this title (or shall reduce payments or limit payments to projects under those parts of the State plan in which there is no such failure).

"(3) DISBURSAL OF WITHHELD FUNDS.—The Commissioner may, in accordance with regulations the Secretary shall prescribe, disburse any funds withheld from a State under paragraph (1) to any public or nonprofit private organization or agency within such State or to any political subdivision of such State submitting a plan meeting the requirements of section 101(a). The Commissioner may not make any payment under this paragraph unless the entity to which such payment is made has provided assurances to the Commissioner that such entity will contribute, for purposes of carrying out such plan, the same amount as the State would have been obligated to contribute if the State received such payment.

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Records.

“(d) REVIEW.—

“(1) PETITION.—Any State that is dissatisfied with a final determination of the Commissioner under section 101(b) or subsection (c) may file a petition for judicial review of such determination in the United States Court of Appeals for the circuit in which the State is located. Such a petition may be filed only within the 30-day period beginning on the date that notice of such final determination was received by the State. The clerk of the court shall transmit a copy of the petition to the Commissioner or to any officer designated by the Commissioner for that purpose. In accordance with section 2112 of title 28, United States Code, the Commissioner shall file with the court a record of the proceeding on which the Commissioner based the determination being appealed by the State. Until a record is so filed, the Commissioner may modify or set aside any determination made under such proceedings.

“(2) SUBMISSIONS AND DETERMINATIONS.—If, in an action under this subsection to review a final determination of the Commissioner under section 101(b) or subsection (c), the petitioner or the Commissioner applies to the court for leave to have additional oral submissions or written presentations made respecting such determination, the court may, for good cause shown, order the Commissioner to provide within 30 days an additional opportunity to make such submissions and presentations. Within such period, the Commissioner may revise any findings of fact, modify or set aside the determination being reviewed, or make a new determination by reason of the additional submissions and presentations, and shall file such modified or new determination, and any revised findings of fact, with the return of such submissions and presentations. The court shall thereafter review such new or modified determination.

“(3) STANDARDS OF REVIEW.—

“(A) IN GENERAL.—Upon the filing of a petition under paragraph (1) for judicial review of a determination, the court shall have jurisdiction—

“(i) to grant appropriate relief as provided in chapter 7 of title 5, United States Code, except for interim relief with respect to a determination under subsection (c); and

“(ii) except as otherwise provided in subparagraph (B), to review such determination in accordance with chapter 7 of title 5, United States Code.

“(B) SUBSTANTIAL EVIDENCE.—Section 706 of title 5, United States Code, shall apply to the review of any determination under this subsection, except that the standard for review prescribed by paragraph (2)(E) of such section 706 shall not apply and the court shall hold unlawful and set aside such determination if the court finds that the determination is not supported by substantial evidence in the record of the proceeding submitted pursuant to paragraph (1), as supplemented by any additional submissions and presentations filed under paragraph (2).”.

(b) CONFORMING AND TECHNICAL AMENDMENTS.—

(1) Section 6(c) (29 U.S.C. 705(c)) is amended by striking “101” and inserting “107”.

(2) The table of contents relating to the Act is amended by inserting after the item relating to section 106 (as added by section 127(b)) the following:

“Sec. 107. Monitoring and review.”.

**SEC. 129. EXPENDITURE OF CERTAIN AMOUNTS.**

(a) AMENDMENT.—Part A of title I (29 U.S.C. 720 et seq.), as amended by the preceding sections, is further amended by adding at the end the following:

**“SEC. 108. EXPENDITURE OF CERTAIN AMOUNTS.**

29 USC 728.

“(a) EXPENDITURE.—Amounts described in subsection (b) may not be expended by a State for any purpose other than carrying out programs for which the State receives financial assistance under this title, under part C of title VI, or under title VII.

“(b) AMOUNTS.—The amounts referred to in subsection (a) are amounts provided to a State under the Social Security Act (42 U.S.C. 301 et seq.) as reimbursement for the expenditure of payments received by the State from allotments under section 110 of this Act.”.

(b) TECHNICAL AMENDMENT.—The table of contents relating to the Act is amended by inserting after the item relating to section 107 (as added by section 128(b)(2)) the following:

“Sec. 108. Expenditure of certain amounts.”.

**SEC. 130. TRAINING OF EMPLOYERS WITH RESPECT TO AMERICANS WITH DISABILITIES ACT OF 1990.**

(a) AMENDMENT.—Part A of title I (29 U.S.C. 720 et seq.), as amended by the preceding sections, is further amended by adding at the end the following:

**“SEC. 109. TRAINING OF EMPLOYERS WITH RESPECT TO AMERICANS WITH DISABILITIES ACT OF 1990.**

29 USC 728a.

“A State may expend payments received under section 111—

“(1) to carry out a program to train employers with respect to compliance with the requirements of title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.); and

“(2) to inform employers of the existence of the program and the availability of the services of the program.”.

(b) TECHNICAL AMENDMENT.—The table of contents relating to the Act is amended by inserting after the item relating to section 108 (as added by section 129(b)) the following:

“Sec. 109. Training of employers with respect to Americans with Disabilities Act of 1990.”.

**SEC. 131. REALLOTMENT.**

(a) TERRITORIES.—Section 110(a) (29 U.S.C. 730(a)) is amended—

(1) in paragraph (3), by striking “and the Trust Territory of the Pacific Islands” and inserting “and the Republic of Palau”; and

(2) by adding at the end the following new paragraph:

“(5) The Republic of Palau may receive allotments or allocations under this section only until the Compact of Free Association with Palau takes effect.”.

(b) REALLOTMENT.—Section 110(c) (29 U.S.C. 730(c)) is amended by adding at the end the following:

“(4) If the Commissioner determines, under paragraph (1), that any payment of an allotment to a State under section 111(a) for any fiscal year will not be utilized by such State in carrying out the purposes of this title, the payment shall remain available for reallocation to other States until reallocated.”

(c) RESERVATION.—Section 110(d) (29 U.S.C. 730(d)) is amended by striking paragraph (2) and inserting the following:

“(2) The sum referred to in paragraph (1) shall be, as determined by the Secretary—

“(A) not less than one-third of one percent and not more than 1.5 percent of the amount under paragraph (1), for fiscal years 1993 and 1994; and

“(B) not less than one-half of one percent and not more than 1.5 percent of the amount under paragraph (1), for fiscal years 1995, 1996, and 1997.”

#### SEC. 132. PAYMENTS TO STATES.

Section 111(a) (29 U.S.C. 731(a)) is amended—

(1) in paragraph (1)—

(A) by striking “(including any additional payment to it under section 110(b))”; and

(B) by striking “State plan.” and inserting “State plan and development and implementation of the strategic plan as provided in section 101(a)(34)(A). Any State that receives such an amount shall expend, for development and implementation of the strategic plan, not less than the percentage of the allotment of the State referred to in section 101(a)(34)(B).”;

(2) in paragraph (2)—

(A) in subparagraph (A), by striking “(and any additional payment under subsection (b))”; and

(B) by amending subparagraph (B) to read as follows:

“(B)(i) For fiscal year 1993, the amount otherwise payable to a State for a fiscal year under this section shall be reduced by the amount by which expenditures from non-Federal sources under the State plan under this title for the previous fiscal year are less than the average of the total of such expenditures for the 3 fiscal years preceding the previous fiscal year.

“(ii) For fiscal year 1994 and each fiscal year thereafter, the amount otherwise payable to a State for a fiscal year under this section shall be reduced by the amount by which expenditures from non-Federal sources under the State plan under this title for the previous fiscal year are less than the total of such expenditures for the second fiscal year preceding the previous fiscal year.”; and

(3) by adding at the end the following new paragraph:

“(3)(A) Except as provided in subparagraph (B), the amount of a payment under this section with respect to any construction project in any State shall be equal to the same percentage of the cost of such project as the Federal share that is applicable in the case of rehabilitation facilities (as defined in section 645(g) of the Public Health Service Act (42 U.S.C. 291o(a))), in such State.

“(B) If the Federal share with respect to rehabilitation facilities in such State is determined pursuant to section 645(b)(2) of such Act (42 U.S.C. 291o(b)(2)), the percentage of the cost for purposes of this section shall be determined in accordance with regulations

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prescribed by the Commissioner designed to achieve as nearly as practicable results comparable to the results obtained under such section.”.

**SEC. 133. CLIENT ASSISTANCE PROGRAM.**

(a) **ADVOCACY.**—Section 112(a) (29 U.S.C. 732(a)) is amended—

(1) in the first sentence—

(A) by striking “to assist such clients” and inserting “to assist and advocate for such clients”;

(B) by inserting “and advocacy” after “including assistance”; and

(C) by inserting before the period in the first sentence the following: “and to facilitate access to the services funded under this Act through individual and systemic advocacy”;

(2) by amending the second sentence to read as follows:

“The client assistance program shall provide information on the available services and benefits under this Act and title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.) to individuals with disabilities in the State, especially with regard to individuals with disabilities who have traditionally been unserved or underserved by vocational rehabilitation programs.”; and

(3) by inserting after the second sentence the following:

“In providing assistance and advocacy under this subsection with respect to services under this title, a client assistance program may provide the assistance and advocacy with respect to services that are directly related to facilitating the employment of the individual.”.

(b) **REDESIGNATION OF AGENCY.**—Section 112(c)(1) (29 U.S.C. 732(c)(1)) is amended by striking subparagraph (B) and inserting the following:

“(B) The Governor may not redesignate the agency designated under subparagraph (A) without good cause and unless—

“(i) the Governor has given the agency 30 days notice of the intention to make such redesignation, including specification of the good cause for such redesignation and an opportunity to respond to the assertion that good cause has been shown;

“(ii) individuals with disabilities or their representatives have timely notice of the redesignation and opportunity for public comment; and

“(iii) the agency has the opportunity to appeal to the Commissioner on the basis that the redesignation was not for good cause.”.

(c) **MINIMUM STATE ALLOTMENTS.**—Section 112(e)(1) (29 U.S.C. 732(e)(1)) is amended—

(1) in subparagraph (B), by striking “and the Trust Territory of the Pacific Islands.” and inserting “and the Republic of Palau, except that the Republic of Palau may receive such allotment under this section only until the Compact of Free Association with Palau takes effect.”;

(2) in subparagraph (C), by striking “and the Trust Territory of the Pacific Islands” and inserting “and the Republic of Palau”; and

(3) in subparagraph (D)—

(A) in clause (i), by striking “\$75,000” and inserting “\$100,000”; and

(B) in clause (ii)—

(i) by striking “subsection (c),” and inserting “clause (i),”;

(ii) by striking “minimum allotment under subparagraph (A)” and inserting “minimum allotments under subparagraphs (A) and (B);” and

(iii) by striking “fiscal year by more than” and all that follows and inserting “fiscal year.”

(d) REPORT.—Section 112(g) (29 U.S.C. 732(g)) is amended by adding at the end the following new paragraphs:

“(5) Each such report shall contain information on the number of requests the client assistance program under this section receives annually, the number of requests such program is unable to serve, and the reasons that the program is unable to serve all the requests.

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“(6) For purposes of such report or for any other periodic audit, report, or evaluation of the performance of a client assistance program under this section, the Secretary shall not require such a program to disclose the identity of, or any other personally identifiable information related to, any individual requesting assistance under such program.”

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 112 (29 U.S.C. 732) is amended—

(1) by striking subsection (h);

(2) by redesignating subsection (i) as subsection (h); and

(3) in subsection (h) (as so redesignated by paragraph (2) of this subsection) by striking “\$7,100,000” and all that follows and inserting “such sums as may be necessary for fiscal years 1993 through 1997 to carry out the provisions of this section.”

#### SEC. 134. INNOVATION AND EXPANSION GRANTS.

(a) AMENDMENT.—Part C of title I (29 U.S.C. 740 et seq.) is amended to read as follows:

##### “PART C—INNOVATION AND EXPANSION GRANTS

29 USC 740.

#### “SEC. 120. STATE ELIGIBILITY.

“Effective October 1, 1993, any State desiring to receive assistance under this part and part B of this title shall prepare and submit to the Commissioner a statewide strategic plan for developing and using innovative approaches for achieving long-term success in expanding and improving vocational rehabilitation services, including supported employment services, provided under the State plan submitted under section 101 and the supplement to the State plan submitted under part C of title VI.

29 USC 741.

#### “SEC. 121. CONTENTS OF STRATEGIC PLANS.

“(a) PURPOSE AND POLICY.—The strategic plan shall be designed to achieve the purpose and policy of this title and carry out the State plan and the supplement to the State plan submitted under part C of title VI.

“(b) CONTENTS.—The strategic plan shall include—

“(1) a statement of the mission, philosophy, values, and principles of the vocational rehabilitation program in the State;

“(2) specific goals and objectives for expanding and improving the system for providing the vocational rehabilitation program;

“(3) specific multifaceted and systemic approaches for accomplishing the objectives, including interagency coordination

and cooperation, that build upon state-of-the-art practices and research findings and that implement the State plan and the supplement to the State plan submitted under part C of title VI;

“(4) a description of the specific programs, projects, and activities funded under this part and how the programs, projects, and activities accomplish the objectives; and

“(5) specific criteria for determining whether the objectives have been achieved, an assurance that the State will conduct an annual evaluation to determine the extent to which the objectives have been achieved, and, if specific objectives have not been achieved, the reasons that the objectives have not been achieved and a description of alternative approaches that will be taken.

**“SEC. 122. PROCESS FOR DEVELOPING STRATEGIC PLANS.**

29 USC 742.

“(a) PERIOD AND UPDATES.—The strategic plan shall cover a 3-year period and shall be updated on an annual basis to reflect actual experience over the previous year and input from the State Rehabilitation Advisory Council established under section 105, individuals with disabilities, and other interested parties.

“(b) RECOMMENDATIONS.—Prior to developing the strategic plan, the State shall hold public forums and meet with and receive recommendations from members of the State Rehabilitation Advisory Council and the Statewide Independent Living Council established under section 705.

“(c) CONSIDERATION OF RECOMMENDATIONS.—The State shall consider the recommendations and, if the State rejects the recommendations, shall include a written explanation of the rejection in the strategic plan.

“(d) PROCEDURE.—The State shall develop a procedure for ensuring ongoing comment from the councils described in subsection (b) as the plan is being implemented.

“(e) DISSEMINATION.—The State shall widely disseminate the strategic plan to individuals with disabilities, disability organizations, rehabilitation professionals, and other interested persons.

**“SEC. 123. USE OF FUNDS.**

29 USC 743.

“A State may use funds made available under this part, directly or by grant, contract, or other arrangement, to carry out—

“(1) programs to initiate and expand employment opportunities for individuals with severe disabilities in integrated settings that allow for the use of on-the-job training to promote the objectives of title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.);

“(2) programs or activities to improve the provision of, and expand, employment services in integrated settings to individuals with sensory, cognitive, physical, and mental impairments who have traditionally not been served by the State vocational rehabilitation agency;

“(3) programs and activities to maximize the ability of individuals with disabilities to use rehabilitation technology in employment settings;

“(4) programs and activities that—

“(A) assist employers in accommodating, evaluating, training, or placing individuals with disabilities in the workplace of the employer consistent with provisions of

this Act and title I of the Americans with Disabilities Act of 1990; and

“(B) may include short-term technical assistance or other effective strategies;

“(5) programs and activities that expand and improve the extent and type of client involvement in the review and selection of the training and employment goals of the client;

“(6) programs and activities that expand and improve opportunities for career advancement for individuals with severe disabilities;

“(7) programs, projects, and activities designed to initiate, expand, or improve working relationships between vocational rehabilitation services provided under this title and independent living services provided under title VII;

“(8) programs, projects, and activities designed to improve functioning of the system for delivering vocational rehabilitation services and to improve coordination and working relationships with other State and local agencies, business, industry, labor, community rehabilitation programs, and centers for independent living, including projects designed to—

“(A) increase the ease of access to, timeliness of, and quality of vocational rehabilitation services through the development and implementation of policies, procedures, and systems and interagency mechanisms for providing vocational rehabilitation services;

“(B) improve the working relationships between State vocational rehabilitation agencies, and other State agencies, centers for independent living, community rehabilitation programs, educational agencies involved in higher education, adult basic education, and continuing education, and businesses, industry, and labor organizations, in order to create and facilitate cooperation in—

“(i) planning and implementing services; and

“(ii) the development of an integrated system of community-based vocational rehabilitation service that includes appropriate transitions between service systems; and

“(C) improve the ability of professionals, clients, advocates, business, industry, and labor to work in cooperative partnerships to improve the quality of vocational rehabilitation services and job and career opportunities for individuals with disabilities;

“(9) support efforts to ensure that the annual evaluation of the effectiveness of the program in meeting the goals and objectives set forth in the State plan, including the system for evaluating the performance of rehabilitation counselors, coordinators, and other personnel used in the State, facilitates and does not impede the accomplishment of the purpose and policy of this title, including serving, among others, individuals with the most severe disabilities;

“(10) support the initiation, expansion, and improvement of a comprehensive system of personnel development;

“(11) support the provision of training and technical assistance to clients, business, industry, labor, community rehabilitation programs, and others regarding the implementation of the amendments made by the Rehabilitation Act Amendments

of 1992, of title V of this Act, and of the Americans with Disabilities Act of 1990; and

“(12) support the funding of the State Rehabilitation Advisory Council and the Statewide Independent Living Council established under section 705.

**“SEC. 124. ALLOTMENTS AMONG STATES.**

29 USC 744.

“(a) IN GENERAL.—

“(1) STATES.—

“(A) POPULATION BASIS.—Except as provided in subparagraph (B), from sums appropriated for each fiscal year to carry out this part (not including sums used in accordance with section 101(a)(34)(B)), the Commissioner shall make an allotment to each State whose State plan has been approved under section 101 of an amount bearing the same ratio to such sums as the population of the State bears to the population of all States.

“(B) MINIMUMS.—Subject to the availability of appropriations to carry out this part, the allotment to any State under subparagraph (A) shall be not less than \$200,000 or one-third of one percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year that is less than \$200,000 or one-third of one percent of such sums shall be increased to the greater of the two amounts.

“(2) CERTAIN TERRITORIES.—

“(A) IN GENERAL.—For the purposes of this subsection, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau shall not be considered to be States.

“(B) ALLOTMENT.—Each jurisdiction described in subparagraph (A) shall be allotted not less than one-eighth of one percent of the amounts made available for purposes of this part for the fiscal year for which the allotment is made, except that the Republic of Palau may receive such allotment under this section only until the Compact of Free Association with Palau takes effect.

“(3) ADJUSTMENT FOR INFLATION.—For purposes of determining the minimum amount of an allotment under paragraph (1)(B), the amount \$200,000 shall, in the case of such allotments for fiscal year 1994 and subsequent fiscal years, be increased to the extent necessary to offset the effects of inflation occurring since October 1992, as measured by the percentage increase in the Consumer Price Index For All Urban Consumers (U.S. city average) during the period ending on April 1 of the fiscal year preceding the fiscal year for which the allotment is to be made.

“(b) PROPORTIONAL REDUCTION.—Amounts necessary to provide allotments to States in accordance with subsection (a)(1)(B) as increased under subsection (a)(3), or to provide allotments in accordance with subsection (a)(2)(B), shall be derived by proportionately reducing the allotments of the remaining States under subsection (a)(1), but with such adjustments as may be necessary to prevent the allotment of any such remaining States from being thereby reduced to less than the greater of \$200,000 or one-third of one percent of the sums made available for purposes of this part for



the fiscal year for which the allotment is made, as increased in accordance with subsection (a)(3).

“(c) **REALLOTMENT.**—Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be expended by such State for carrying out the provisions of this part, the Commissioner shall make such amount available for carrying out the purposes of this part to one or more of the States that the Commissioner determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the State (as determined under the preceding provisions of this section) for such year.”.

(b) **TECHNICAL AMENDMENT.**—The table of contents relating to the Act is amended by striking the items relating to part C of title I and inserting the following:

“PART C—INNOVATION AND EXPANSION GRANTS

“Sec. 120. State eligibility.

“Sec. 121. Contents of strategic plans.

“Sec. 122. Process for developing strategic plans.

“Sec. 123. Use of funds.

“Sec. 124. Allotments among States.”.

**SEC. 135. STUDY OF NEEDS OF AMERICAN INDIANS WITH HANDICAPS.**

29 USC 752.

(a) **REPEAL.**—Part D of title I is amended by repealing section 131 (29 U.S.C. 751).

(b) **TABLE OF CONTENTS.**—The table of contents relating to the Act is amended by striking the item relating to section 131.

29 USC 712 note.

**SEC. 136. REVIEW OF DATA COLLECTION SYSTEM.**

(a) **REVIEW.**—The Commissioner of the Rehabilitation Services Administration (in this section referred to as the ‘Commissioner’) shall undertake a comprehensive review of the current system for collecting and reporting client data under the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), particularly data on clients of the programs under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.).

(b) **CONSIDERATIONS.**—

(1) **IN GENERAL.**—In conducting the review, the Commissioner shall examine the kind, quantity, and quality of the data that are currently reported, taking into consideration the range of purposes that the data serve at the Federal, State, and local levels.

(2) **DATA ELEMENTS.**—In conducting the review, the Commissioner shall examine the feasibility of collecting and reporting under the system information, if such information can be determined, regarding—

(A) other program participation by clients during the 3 years prior to application;

(B) the number of jobs held, hours worked, and earnings received by clients in the 3 years prior to application to a program under the Rehabilitation Act of 1973;

(C) the types of major and secondary disabilities of clients;

(D) the dates of the onset of disabilities of clients;

(E) the severity of the disabilities of clients;

(F) the sources of referral of clients to programs under such Act;

(G) the hours worked by clients;

(H) the size and industry code of the place of employment of clients at the time of entry into such a program and at the termination of services under the program;

(I) the number of services provided under the programs and the cost of each service;

(J) the types of public support received by the clients;

(K) the primary sources of economic support and amounts of public assistance received by the clients before and after receiving the services;

(L) whether the clients are covered by health insurance from any source and whether health insurance is available through the employment of the client;

(M) the supported employment status of the client; and

(N) the reasons for terminating the services.

(c) **RECOMMENDATIONS.**—Based on the review, the Commissioner shall recommend improvements in the data collection and reporting system.

(d) **VIEWS.**—In developing the recommendations, the Commissioner shall seek views of persons and entities providing or using such data, including State agencies, State Rehabilitation Advisory Councils, providers of vocational rehabilitation services, professionals in the field of vocational rehabilitation, clients and organizations representing clients, the National Council on Disability, other Federal agencies, non-Federal researchers, other analysts using the data, and other members of the public.

(e) **PUBLICATION AND SUBMISSION OF REPORT.**—Not later than 18 months after the date of the enactment of this Act, the Commissioner shall publish the recommendations in the Federal Register and shall prepare and submit a report containing the recommendations to the appropriate committees of Congress. The Commissioner shall not implement the recommendations earlier than 90 days after the date on which the Commissioner submits the report.

#### **SEC. 137. EXCHANGE OF DATA.**

29 USC 712 note.

The Secretary of Education and the Secretary of Health and Human Services shall enter into a memorandum of understanding for the purpose of exchanging data of mutual importance, regarding clients of State vocational rehabilitation agencies, that are contained in databases maintained by the Rehabilitation Services Administration, as required under section 13 of the Rehabilitation Act of 1973 (29 U.S.C. 712), and the Social Security Administration, from its Summary Earnings and Records and Master Beneficiary Records. For purposes of the exchange, the Social Security data shall not be considered tax information and, as appropriate, the confidentiality of all client information shall be maintained by both agencies.

Privacy.

#### **SEC. 138. EFFECTIVE DATE.**

29 USC 701 note.

(a) **EFFECTIVE DATE.**—Except as provided in subsection (b), this title and the amendments made by this title shall take effect on the date of enactment of this Act.

(b) **STATE PLAN.**—The Secretary of Education shall implement the amendments made by section 122 of this Act to section 101 of the Rehabilitation Act of 1973 (29 U.S.C. 721), as soon as is practicable after the date of enactment of this Act, consistent with

the effective and efficient administration of the Rehabilitation Act of 1973, but not later than October 1, 1993.

## TITLE II—RESEARCH

### SEC. 201. DECLARATION OF PURPOSE.

Section 200 (29 U.S.C. 760) is amended by striking paragraphs (1) through (4) and inserting the following:

“(1) provide for research, demonstration projects, training, and related activities to maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities of all ages, with particular emphasis on improving the effectiveness of services authorized under this Act;

“(2) provide for a comprehensive and coordinated approach to the support and conduct of such research, demonstration projects, training, and related activities and to ensure that the approach is in accordance with the long-range plan for research developed under section 202(g);

“(3) promote the transfer of rehabilitation technology to individuals with disabilities through research and demonstration projects relating to—

“(A) the procurement process for the purchase of rehabilitation technology;

“(B) the utilization of rehabilitation technology on a national basis; and

“(C) specific adaptations or customizations of products to enable individuals with disabilities to live more independently;

“(4) ensure the widespread distribution, in usable formats, of practical scientific and technological information—

“(A) generated by research, demonstration projects, training, and related activities; and

“(B) regarding state-of-the-art practices, improvements in the services authorized under this Act, rehabilitation technology, and new knowledge regarding disabilities, to rehabilitation professionals, individuals with disabilities, and other interested parties;

“(5) identify effective strategies that enhance the opportunities of individuals with disabilities to engage in productive work; and

“(6) increase opportunities for researchers who are members of traditionally underserved populations, including researchers who are members of minority groups and researchers who are individuals with disabilities.”.

### SEC. 202. AUTHORIZATION OF APPROPRIATIONS.

Section 201(a) (29 U.S.C. 761(a)) is amended—

(1) in paragraph (1)—

(A) by striking “other than expenses to carry out section 204” and inserting “which shall include the expenses of the Rehabilitation Research Advisory Council under section 205, and shall not include the expenses of such Institute to carry out section 204”; and

(B) by striking "fiscal year 1987" and all that follows through the semicolon and inserting "each of fiscal years 1993 through 1997"; and

(2) by striking paragraph (2) and inserting the following:  
"(2) to carry out section 204, such sums as may be necessary for each of fiscal years 1993 through 1997."

**SEC. 203. NATIONAL INSTITUTE ON DISABILITY AND REHABILITATION RESEARCH.**

(a) **ESTABLISHMENT.**—Section 202(a) (29 U.S.C. 761a(a)) is amended—

(1) in the first sentence—

(A) by striking "In order" and all that follows through "there" and inserting "(1) There"; and

(B) by striking the period at the end and inserting the following: "; in order to—

"(A) promote, coordinate, and provide for—

"(i) research;

"(ii) demonstration projects; and

"(iii) related activities,

with respect to individuals with disabilities;

"(B) more effectively carry out activities through the programs under section 204;

"(C) widely disseminate information from the activities described in clauses (i) through (iii) of subparagraph (A) and subparagraph (B); and

"(D) provide leadership in advancing the quality of life of individuals with disabilities."; and

(2) by striking the second sentence and inserting the following:

"(2) In the performance of the functions of the office, the Director shall be directly responsible to the Secretary or to the same Under Secretary or Assistant Secretary of the Department of Education to whom the Commissioner is responsible under section 3(a)."

(b) **RESPONSIBILITIES.**—Section 202(b) (29 U.S.C. 761a(b)) is amended—

(1) by striking paragraph (2) and inserting the following:

"(2) widely disseminating findings, conclusions, and recommendations, resulting from research, demonstration projects, and related activities funded by the Institute, to—

"(A) other Federal, State, tribal, and local public agencies;

"(B) private organizations engaged in research relating to rehabilitation or providing rehabilitation services;

"(C) rehabilitation practitioners; and

"(D) individuals with disabilities and the parents, family members, guardians, advocates, or authorized representatives of the individuals;";

(2) by striking paragraph (4) and inserting the following:

"(4) widely disseminating educational materials and research results, concerning ways to maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, to—

"(A) public and private entities, including—

“(i) elementary and secondary schools (as defined in paragraphs (8) and (21), respectively, of section 1471 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891 (8) and (21)); and

“(ii) institutions of higher education;

“(B) rehabilitation practitioners;

“(C) individuals with disabilities (especially such individuals who are members of minority groups or of populations that are unserved or underserved by programs under this Act); and

“(D) the parents, family members, guardians, advocates, or authorized representatives of the individuals;”;

(3) by striking paragraph (6) and inserting the following:

“(6) conducting conferences, seminars, and workshops (including in-service training programs and programs for individuals with disabilities) concerning advances in rehabilitation research and rehabilitation technology, pertinent to the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities;”;

(4) in paragraph (7), by striking “; and” and inserting “, including dissemination activities;”;

(5) in paragraph (8)—

(A) by inserting “the Health Care Financing Administration,” after “the Bureau of the Census;”;

(B) by inserting “widely” before “disseminating;”;

(C) by striking “and others to assist in the planning and evaluation” and inserting “, individuals with disabilities, the parents, family members, guardians, advocates, or authorized representatives of such individuals, and others to assist in the planning, assessment, and evaluation”; and

(D) by striking the period at the end and inserting a semicolon; and

(6) by adding at the end the following paragraphs:

“(9) conducting research on consumer satisfaction with vocational rehabilitation services for the purpose of identifying effective rehabilitation programs and policies that promote the independence of individuals with disabilities and achievement of long-term vocational goals;

“(10) conducting research to examine the relationship between the provision of specific services and long-term vocational outcomes; and

“(11) coordinating activities with the Attorney General regarding the provision of information, training, or technical assistance regarding the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) to ensure consistency with the plan for technical assistance required under section 506 of such Act (42 U.S.C. 12206).”.

(c) DIRECTOR.—

(1) IN GENERAL.—Section 202(c)(1) (29 U.S.C. 761a(c)(1)) is amended—

(A) in the first sentence, by striking “appointed by the President, by and with the advice and consent of the Senate,” and inserting “appointed by the Secretary, except that the person serving as the Director on the date of the enactment of the Rehabilitation Act Amendments of

1992 may, at the pleasure of the President, continue to serve as Director.”; and

(B) by striking the fourth sentence.

(2) QUALIFICATIONS.—Section 202(c)(2) (29 U.S.C. 761a(c)(2)) is amended—

(A) by inserting after the first sentence the following: “The Deputy Director shall be an individual with substantial experience in rehabilitation and in research administration.”;

(B) in the sentence beginning “The Deputy Director shall be compensated”—

(i) by striking “the rate provided for grade GS-17 of the General Schedule under section 5332” and inserting “the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382”; and

(ii) by striking “or disability of the Director” and inserting “of the Director or the inability of the Director to perform the essential functions of the job”; and

(C) by striking the last sentence.

(d) FELLOWSHIPS.—Section 202(d) (29 U.S.C. 761a(d)) is amended by inserting “, including individuals with disabilities,” after “fellows”.

(e) SCIENTIFIC REVIEW.—Section 202(e) (29 U.S.C. 761a(e)) is amended—

(1) by inserting “(1)” after the subsection designation;

(2) by striking “rehabilitation field.” and inserting the following: “rehabilitation field (including experts in the independent living field) competent to review research grants and programs, including knowledgeable individuals with disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals. The Director shall solicit nominations for such peer review groups from the public and shall publish the names of the individuals selected. Individuals comprising each peer review group shall be selected from a pool of qualified individuals to facilitate knowledgeable, cost-effective review.”; and

(3) by adding at the end the following:

“(2) In providing for such scientific review, the Secretary shall provide for training of such individuals and mechanisms to receive input from individuals with disabilities, and from the parents, family members, guardians, advocates, or authorized representatives of the individuals.”.

(f) USE OF FUNDS.—Section 202 (29 U.S.C. 761a) is amended by striking subsection (f) and inserting the following:

“(f) Not less than 90 percent of the funds appropriated under this title for any fiscal year shall be expended by the Director to carry out activities under this title through grants, contracts, or cooperative agreements. Up to 10 percent of the funds appropriated under this title for any fiscal year may be expended directly for the purpose of carrying out the functions of the Director under this section.”.

(g) LONG-RANGE PLAN.—Section 202(g) (29 U.S.C. 761a(g)) is amended—

(1) in the matter preceding paragraph (1), by striking “within eighteen months after the effective date of this section”;

(2) in paragraph (1), by striking “problems encountered” and all that follows and inserting “full inclusion and integration

into society of individuals with disabilities, especially in the area of employment;";

(3) by striking "and" at the end of paragraph (2);

(4) by striking the period at the end of paragraph (3) and inserting "; and"; and

(5) by adding at the end the following new paragraphs:

"(4) be developed in consultation with the Rehabilitation Research Advisory Council established under section 205 and after full consideration of the input of individuals with disabilities and the parents, family members, guardians, advocates, or authorized representatives of the individuals, organizations representing individuals with disabilities, providers of services furnished under this Act, and researchers in the rehabilitation field;

"(5) specify plans for widespread dissemination of research results in accessible formats to rehabilitation practitioners, individuals with disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals;

"(6) specify plans for widespread dissemination of research results that concern individuals with disabilities who are members of minority groups or of populations that are unserved or underserved by programs under this Act;

"(7) be developed by the Director—

"(A) in coordination with the Commissioner; and

"(B) in consultation with the National Council on Disability established under title IV, the Secretary of Education, officials responsible for the administration of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.), the Interagency Committee on Disability Research established under section 203, individuals with disabilities, the parents, family members, guardians, advocates, or authorized representatives of the individuals, and any other persons or entities the Director considers appropriate; and

"(8) be revised, in the manner required by this section—

"(A) at least once every 5 years; and

"(B) at any time determined to be necessary by the Director."

(h) **RESEARCH PROGRAM.**—Section 202(i)(2) (29 U.S.C. 761a(i)(2)) is amended by striking "this section" and inserting "this title".

(i) **PEDIATRIC REHABILITATION RESEARCH.**—Section 202(j) (29 U.S.C. 761a(j)) is amended—

(1) in paragraph (1), by striking "for the establishment of" and inserting "to support"; and

(2) in paragraphs (2) and (3), by striking "establish" and inserting "support".

(j) **REHABILITATION RESEARCHERS.**—Section 202(k) (29 U.S.C. 761a(k)) is amended by striking "researchers" and all that follows and inserting the following: "rehabilitation researchers, including individuals with disabilities, with particular attention to research areas that support the implementation and objectives of this Act and that improve the effectiveness of services authorized under this Act."

(k) **RECOMMENDATIONS AND STUDY.**—Section 202 (29 U.S.C. 761a) is amended by striking subsections (l) and (m).

**SEC. 204. INTERAGENCY COMMITTEE.**

(a) **ESTABLISHMENT.**—Section 203(a)(1) (29 U.S.C. 761b(a)(1)) is amended by inserting “the Commissioner of the Rehabilitation Services Administration, the Assistant Secretary for Special Education and Rehabilitative Services,” after “designees: the Director,”.

(b) **IDENTIFICATION, ASSESSMENT, AND COORDINATION.**—Section 203(b) (29 U.S.C. 761b(b)) is amended by striking “The” and inserting “After receiving input from individuals with disabilities and the parents, family members, guardians, advocates, or authorized representatives of the individuals, the”.

(c) **REPORT.**—Section 203(c) (29 U.S.C. 761b(c)) is amended by striking “, not later than” and all that follows through “shall” and inserting “shall annually”.

**SEC. 205. RESEARCH.**

(a) **IN GENERAL.**—Section 204(a) (29 U.S.C. 762(a)) is amended—

(1) in the first sentence, by striking “demonstrations,” and all that follows and inserting “demonstration projects, training, and related activities, the purposes of which are to develop methods, procedures, and rehabilitation technology, that maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most severe disabilities, and improve the effectiveness of services authorized under this Act. In carrying out this section, the Director shall emphasize projects that support the implementation of titles I, III, VI, VII, and VIII.”; and

(2) in the last sentence—

(A) by inserting after “Such projects” the following: “, as described in the State plans submitted by State agencies,”;

(B) by striking “special problems of homebound and institutionalized individuals” and inserting “studies and analysis of special problems of individuals who are homebound and individuals who are institutionalized”; and

(C) by striking the period at the end and inserting the following: “, particularly individuals with disabilities, and individuals with the most severe disabilities, who are members of populations that are unserved or underserved by programs under this Act.”.

(b) **RESEARCH ACTIVITIES.**—Section 204(b) (29 U.S.C. 762(b)) is amended—

(1) by redesignating paragraphs (4) through (15) as paragraphs (5) through (16), respectively;

(2) by striking the matter preceding paragraph (1) and all that follows through paragraph (3) and inserting the following:

“(b)(1) In addition to carrying out projects under subsection (a), the Director may make grants under this subsection (referred to in this subsection as ‘research grants’) to pay part or all of the cost of the specialized research or demonstration activities described in paragraphs (2) through (16).

“(2)(A) Research grants may be used for the establishment and support of Rehabilitation Research and Training Centers, for



the purpose of providing an integrated program of research, which Centers shall—

“(i) be operated in collaboration with institutions of higher education or providers of rehabilitation services or other appropriate services; and

“(ii) serve as centers of national excellence and national or regional resources for providers and individuals with disabilities and the parents, family members, guardians, advocates, or authorized representatives of the individuals.

“(B) The Centers shall conduct research and training activities by—

“(i) conducting coordinated and advanced programs of research in rehabilitation targeted toward the production of new knowledge that will improve rehabilitation methodology and service delivery systems, alleviate or stabilize disabling conditions, and promote maximum social and economic independence of individuals with disabilities;

“(ii) providing training (including graduate, pre-service, and in-service training) to assist individuals to more effectively provide rehabilitation services;

“(iii) providing training (including graduate, pre-service, and in-service training) for rehabilitation research personnel and other rehabilitation personnel; and

“(iv) serving as an informational and technical assistance resource to providers, individuals with disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals, through conferences, workshops, public education programs, in-service training programs, and similar activities.

“(C) The research to be carried out at each such Center may include—

“(i) basic or applied medical rehabilitation research;

“(ii) research regarding the psychological and social aspects of rehabilitation, including disability policy;

“(iii) research related to vocational rehabilitation;

“(iv) continuation of research that promotes the emotional, social, educational, and functional growth of children who are individuals with disabilities;

“(v) continuation of research to develop and evaluate interventions, policies, and services that support families of those children and adults who are individuals with disabilities; and

“(vi) continuation of research that will improve services and policies that foster the productivity, independence, and social integration of individuals with disabilities, and enable individuals with disabilities, including individuals with mental retardation and other developmental disabilities, to live in their communities.

“(D) Training of students preparing to be rehabilitation personnel shall be an important priority for such a Center.

“(E) The Director shall make grants under this paragraph to establish and support both comprehensive centers dealing with multiple disabilities and centers primarily focused on particular disabilities.

“(F) Grants made under this paragraph may be used to provide funds for services rendered by such a Center to individuals with disabilities in connection with the research and training activities.

“(G) Grants made under this paragraph may be used to provide faculty support for teaching—

“(i) rehabilitation related courses of study for credit; and

“(ii) other courses offered by the Centers, either directly or through another entity.

“(H) The research and training activities conducted by such a Center shall be conducted in a manner that is accessible to and usable by individuals with disabilities.

“(I) The Director shall encourage the Centers to develop practical applications for the findings of the research of the Centers.

“(J) In awarding grants under this paragraph, the Director shall take into consideration the location of any proposed Center and the appropriate geographic and regional allocation of such Centers.

“(K) To be eligible to receive a grant under this paragraph, each such institution or provider shall—

“(i) be of sufficient size, scope, and quality to effectively carry out the activities in an efficient manner consistent with appropriate State and Federal law; and

“(ii) demonstrate the ability to carry out the training activities either directly or through another entity that can provide such training.

“(L) The Director shall make grants under this paragraph for periods of 5 years, except that the Director may make a grant for a period of less than 5 years if—

“(i) the grant is made to a new recipient; or

“(ii) the grant supports new or innovative research.

“(M) Grants made under this paragraph shall be made on a competitive basis. To be eligible to receive a grant under this paragraph, a prospective grant recipient shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require.

“(N) The Director shall establish a system of peer review of applications for grants under this paragraph. The peer review of an application for the renewal of a grant made under this paragraph shall take into account the past performance of the applicant in carrying out the grant and input from individuals with disabilities and the parents, family members, guardians, advocates, or authorized representatives of the individuals.

“(O) An institution or provider that receives a grant under this paragraph to establish such a Center may not collect more than 15 percent of the amount of the grant received by the Center in indirect cost charges.

“(3)(A) Research grants may be used for the establishment and support of Rehabilitation Engineering Research Centers, operated by or in collaboration with institutions of higher education or nonprofit organizations, to conduct research or demonstration activities, and training activities, regarding rehabilitation technology, including rehabilitation engineering, assistive technology devices, and assistive technology services, for the purposes of enhancing opportunities for better meeting the needs of, and addressing the barriers confronted by, individuals with disabilities in all aspects of their lives.

“(B) In order to carry out the purposes set forth in subparagraph (A), such a Center shall carry out the research or demonstration activities by—

“(i) developing and disseminating innovative methods of applying advanced technology, scientific achievement, and psychological and social knowledge to—

“(I) solve rehabilitation problems and remove environmental barriers through planning and conducting research, including cooperative research with public or private agencies and organizations, designed to produce new scientific knowledge, and new or improved methods, equipment, and devices; and

“(II) study new or emerging technologies, products, or environments, and the effectiveness and benefits of such technologies, products, or environments;

“(ii) demonstrating and disseminating—

“(I) innovative models for the delivery, to rural and urban areas, of cost-effective rehabilitation technology services that promote utilization of assistive technology devices; and

“(II) other scientific research to assist in meeting the employment and independent living needs of individuals with severe disabilities; or

“(iii) conducting research or demonstration activities that facilitate service delivery systems change by demonstrating, evaluating, documenting, and disseminating—

“(I) consumer responsive and individual and family centered innovative models for the delivery to both rural and urban areas, of innovative cost-effective rehabilitation technology services that promote utilization of rehabilitation technology; and

“(II) other scientific research to assist in meeting the employment and independent living needs of, and addressing the barriers confronted by, individuals with disabilities, including individuals with severe disabilities.

“(C) To the extent consistent with the nature and type of research or demonstration activities described in subparagraph (B), each Center established or supported through a grant made available under this paragraph shall—

“(i) cooperate with programs established under the Technology-Related Assistance to Individuals With Disabilities Act of 1988 (29 U.S.C. 2201 et seq.) and other regional and local programs to provide information to individuals with disabilities and the parents, family members, guardians, advocates, or authorized representatives of the individuals, to—

“(I) increase awareness and understanding of how rehabilitation technology can address their needs; and

“(II) increase awareness and understanding of the range of options, programs, services, and resources available, including financing options for the technology and services covered by the area of focus of the Center;

“(ii) provide training opportunities to individuals, including individuals with disabilities, to become researchers of rehabilitation technology and practitioners of rehabilitation technology in conjunction with institutions of higher education and nonprofit organizations; and

“(iii) respond, through research or demonstration activities, to the needs of individuals with all types of disabilities who may benefit from the application of technology within the area of focus of the Center.

"(D)(i) In establishing Centers to conduct the research or demonstration activities described in subparagraph (B)(iii), the Director may establish one Center in each of the following areas of focus:

"(I) Early childhood services, including early intervention and family support.

"(II) Education at the elementary and secondary levels, including transition from school to postschool activities.

"(III) Employment, including supported employment, and reasonable accommodations and the reduction of environmental barriers as required by the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and title V.

"(IV) Independent living, including transition from institutional to community living, maintenance of community living on leaving the work force, self-help skills, and activities of daily living.

"(ii) Each Center conducting the research or demonstration activities described in subparagraph (B)(iii) shall have an advisory committee, of which the majority of members are individuals with disabilities who are users of rehabilitation technology, and the parents, family members, guardians, advocates, or authorized representatives of users of rehabilitation technology.

"(E) Grants made under this paragraph shall be made on a competitive basis and shall be for a period of 5 years, except that the Director may make a grant for a period of less than 5 years if—

"(i) the grant is made to a new recipient; or

"(ii) the grant supports new or innovative research.

"(F) To be eligible to receive a grant under this paragraph, a prospective grant recipient shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require.

"(G) Each Center established or supported through a grant made available under this paragraph shall—

"(i) cooperate with State agencies and other local, State, regional, and national programs and organizations developing or delivering rehabilitation technology, including State programs funded under the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2201 et seq.); and

"(ii) prepare and submit to the Director as part of an application for continuation of a grant, or as a final report, a report that documents the outcomes of the program in terms of both short- and long-term impact on the lives of individuals with disabilities, and such other information as may be requested by the Director.

Reports.

"(4)(A) Research grants may be used to conduct a program for spinal cord injury research, including conducting such a program by making grants to public or private agencies and organizations to pay part or all of the costs of special projects and demonstration projects for spinal cord injuries, that will—

"(i) ensure widespread dissemination of research findings among all Spinal Cord Injury Centers, to rehabilitation practitioners, individuals with spinal cord injury, the parents, family members, guardians, advocates, or authorized representatives of such individuals, and organizations receiving financial assistance under this paragraph;

“(ii) provide encouragement and support for initiatives and new approaches by individual and institutional investigators; and

“(iii) establish and maintain close working relationships with other governmental and voluntary institutions and organizations engaged in similar efforts in order to unify and coordinate scientific efforts, encourage joint planning, and promote the interchange of data and reports among spinal cord injury investigations.

“(B) Any agency or organization carrying out a project or demonstration project assisted by a grant under this paragraph that provides services to individuals with spinal cord injuries shall—

“(i) establish, on an appropriate regional basis, a multidisciplinary system of providing vocational and other rehabilitation services, specifically designed to meet the special needs of individuals with spinal cord injuries, including acute care as well as periodic inpatient or outpatient followup and services;

“(ii) demonstrate and evaluate the benefits to individuals with spinal cord injuries served in, and the degree of cost effectiveness of, such a regional system;

“(iii) demonstrate and evaluate existing, new, and improved methods and equipment essential to the care, management, and rehabilitation of individuals with spinal cord injuries; and

“(iv) demonstrate and evaluate methods of community outreach for individuals with spinal cord injuries and community education in connection with the problems of such individuals in areas such as housing, transportation, recreation, employment, and community activities.

“(C) In awarding grants under this paragraph, the Director shall take into account the location of any proposed Spinal Cord Injury Center and the appropriate geographic and regional allocation of such Centers.”;

(3) in paragraphs (5) through (16) (as so redesignated by paragraph (1) of this subsection), by striking “Conduct of” the first place in each such paragraph that the term appears and inserting “Research grants may be used to conduct”;

(4) in paragraph (9) (as so redesignated by paragraph (1) of this subsection), to read as follows:

“(9) Research grants may be used to conduct a program of research related to the rehabilitation of children, or older individuals, who are individuals with disabilities, including older American Indians who are individuals with disabilities. Such research program may include projects designed to assist the adjustment of, or maintain as residents in the community, older workers who are individuals with disabilities on leaving the work force.”;

(5) in paragraph (12)(A) (as so redesignated by paragraph (1) of this subsection), by inserting “assessment,” after “early intervention,”; and

(6) in paragraph (13) (as so redesignated by paragraph (1) of this subsection)—

(A) in the matter preceding subparagraph (A), by striking “developing the employment potential” and inserting “addressing the employment needs”; and

(B) in subparagraph (B), by striking “potential” and inserting “needs”.

**SEC. 206. REHABILITATION RESEARCH ADVISORY COUNCIL.**

(a) COUNCIL.—Title II (29 U.S.C. 760 et seq.) is amended by adding at the end the following new section:

**“REHABILITATION RESEARCH ADVISORY COUNCIL**

**“SEC. 205. (a) ESTABLISHMENT.**—Subject to the availability of appropriations, the Secretary shall establish in the Department of Education a Rehabilitation Research Advisory Council (referred to in this section as the ‘Council’) composed of 12 members appointed by the Secretary. 29 USC 765.

**“(b) DUTIES.**—The Council shall advise the Director with respect to research priorities and the development and revision of the long-range plan required by section 202(g).

**“(c) QUALIFICATIONS.**—Members of the Council shall be generally representative of the community of rehabilitation professionals, the community of rehabilitation researchers, the community of individuals with disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals. At least one-half of the members shall be individuals with disabilities or parents, family members, guardians, advocates, or authorized representatives of the individuals.

**“(d) TERMS OF APPOINTMENT.**—

**“(1) LENGTH OF TERM.**—Each member of the Council shall serve for a term of up to 3 years, determined by the Secretary, except that—

**“(A)** a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term; and

**“(B)** the terms of service of the members initially appointed shall be (as specified by the Secretary) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

**“(2) NUMBER OF TERMS.**—No member of the Council may serve more than two consecutive full terms. Members may serve after the expiration of their terms until their successors have taken office.

**“(e) VACANCIES.**—Any vacancy occurring in the membership of the Council shall be filled in the same manner as the original appointment for the position being vacated. The vacancy shall not affect the power of the remaining members to execute the duties of the Council.

**“(f) PAYMENT AND EXPENSES.**—

**“(1) PAYMENT.**—Each member of the Council who is not an officer or full-time employee of the Federal Government shall receive a payment of \$150 for each day (including travel time) during which the member is engaged in the performance of duties for the Council. All members of the Council who are officers or full-time employees of the United States shall serve without compensation in addition to compensation received for their services as officers or employees of the United States.

**“(2) TRAVEL EXPENSES.**—Each member of the Council may receive travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for employees serving intermittently in the Government

service, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

“(g) **DETAIL OF FEDERAL EMPLOYEES.**—On the request of the Council, the Secretary may detail, with or without reimbursement, any of the personnel of the Department of Education to the Council to assist the Council in carrying out its duties. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

“(h) **TECHNICAL ASSISTANCE.**—On the request of the Council, the Secretary shall provide such technical assistance to the Council as the Council determines to be necessary to carry out its duties.

“(i) **TERMINATION.**—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the Council.”.

(b) **TABLE OF CONTENTS.**—The table of contents relating to the Act is amended by inserting after the item relating to section 204 the following:

“Sec. 205. Rehabilitation Research Advisory Council.”.

## TITLE III—TRAINING AND DEMONSTRATION PROJECTS

### SEC. 301. DECLARATION OF PURPOSE; ORGANIZATION.

(a) **PURPOSE.**—Section 300 (29 U.S.C. 770) is amended—

(1) by redesignating paragraphs (1) through (4) as paragraphs (4), (3), (2), and (5), respectively;

(2) by inserting paragraphs (2) and (3) (as so redesignated by paragraph (1) of this subsection), respectively, before paragraph (4) (as so redesignated by paragraph (1) of this subsection);

(3) by inserting before paragraph (2) the following:

“(1) authorize grants and contracts to—

“(A) ensure that skilled personnel are available to provide rehabilitation services to individuals with disabilities through vocational, medical, social, and psychological rehabilitation programs, through supported employment programs, through independent living services programs, and through client assistance programs;

“(B) maintain and upgrade basic skills and knowledge of personnel employed to provide state-of-the-art service delivery systems and rehabilitation technology services; and

“(C) provide training and information to individuals with disabilities, the parents, families, guardians, advocates, and authorized representatives of the individuals, and other appropriate parties to develop the skills necessary for individuals with disabilities to access the rehabilitation system and to become active decisionmakers in the rehabilitation process;”;

(4) in paragraph (2) (as so redesignated by paragraph (1)) by striking “and” at the end;

(5) in paragraph (3) (as so redesignated by paragraph (1)) by striking “training” and inserting “rehabilitation”; and

(6) in paragraph (4) (as so redesignated by paragraph (1)) by striking “construction” and all that follows and inserting

“development and improvement of community rehabilitation programs; and”.

(b) ORGANIZATION.—Title III (29 U.S.C. 770 et seq.) is amended—

(1) by striking the headings for the title and part A of the title and inserting the following:

**“TITLE III—TRAINING AND DEMONSTRATION PROJECTS**

**“PART A—TRAINING PROGRAMS AND COMMUNITY REHABILITATION PROGRAMS”;**

(2) by striking section 301 (29 U.S.C. 771);

(3) by redesignating sections 300, 302, 303, and 304 (29 U.S.C. 770, 772, 773, and 774) as sections 301, 303, 304, and 302, respectively; and 29 USC 771a.

(4) by inserting section 302 (as so redesignated by paragraph (3) of this subsection) after section 301. 29 USC 771a.

(c) CONFORMING AMENDMENTS.—The table of contents relating to title III is amended to read as follows:

**“TITLE III—TRAINING AND DEMONSTRATION PROJECTS**

**“PART A—TRAINING PROGRAMS AND COMMUNITY REHABILITATION PROGRAMS**

“Sec. 301. Declaration of purpose.

“Sec. 302. Training.

“Sec. 303. Vocational rehabilitation services for individuals with disabilities.

“Sec. 304. Loan guarantees for community rehabilitation programs.

“Sec. 305. Comprehensive rehabilitation centers.

“Sec. 306. General grant and contract requirements.

**“PART B—SPECIAL PROJECTS**

“Sec. 310. Authorization of appropriations.

“Sec. 311. Special demonstration programs.

“Sec. 312. Migratory workers.

“Sec. 314. Reader services for individuals who are blind.

“Sec. 315. Interpreter services for individuals who are deaf.

“Sec. 316. Special recreational programs.”.

**SEC. 302. TRAINING.**

(a) TRAINING GRANTS AND CONTRACTS.—

(1) CERTAIN PROJECTS.—Section 302(a) (29 U.S.C. 774(a)) (as so redesignated by section 301(b)(3)) is amended in the first sentence— 29 USC 771a.

(A) in the matter preceding paragraph (1)—

(i) by inserting after “traineeships, and related activities” the following: “, including the provision of technical assistance,”; and

(ii) by inserting “, and other services provided under this Act,” after “rehabilitation services”;

(B) in paragraph (1), by striking “specially” and inserting “specifically”;

(C) in paragraph (2), by inserting before the comma at the end the following: “, including needs for rehabilitation technology services”;

(D) in paragraph (3)—

(i) by striking “comprehensive services for independent living” and inserting “independent living services”; and

(ii) by striking “and” at the end;

(E) by redesignating paragraph (4) as paragraph (5); and



(F) by inserting after paragraph (3) the following: “(4) personnel specifically trained to deliver services, through supported employment programs, to individuals with the most severe disabilities, and”;

29 USC 771a.

(2) CERTAIN REQUIREMENTS; APPLICATION FOR ASSISTANCE.—Section 302(a) (29 U.S.C. 774(a)), as amended by paragraph (1), is amended—

(A) by striking the second and third sentences;

(B) by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively;

(C) by inserting “(1)” after the subsection designation; and

(D) by adding at the end the following paragraphs:

“(2) Grants and contracts under paragraph (1) may be expended for scholarships, with necessary stipends and allowances.

“(3) In carrying out this subsection, the Commissioner shall furnish training regarding the services provided under this Act, and, in particular, services provided in accordance with amendments made by the Rehabilitation Act Amendments of 1992, to rehabilitation counselors and other rehabilitation personnel. In carrying out this subsection, the Commissioner shall also furnish training to such counselors and personnel regarding the applicability of section 504 of this Act, title I of the Americans with Disabilities Act of 1990, and the provisions of titles II and XVI of the Social Security Act that are related to work incentives for individuals with disabilities.

Colleges and  
universities.  
Minorities.

“(4) The Commissioner, in carrying out this subsection, shall make grants to Historically Black Colleges and Universities and other institutions of higher education whose minority student enrollment is at least 50 percent.

“(5) No grant shall be awarded under this section unless the applicant has submitted an application to the Commissioner in such form, and in accordance with such procedures, as the Commissioner may require. Any such application shall include a detailed description of strategies that will be utilized to recruit and train persons so as to reflect the diverse populations of the United States, as part of the effort to increase the number of individuals with disabilities, and individuals who are members of minority groups, who are available to provide rehabilitation services.”

29 USC 771a.

(b) PROJECTS.—Section 302(b) (29 U.S.C. 774(b)) is amended—

(1) by striking paragraph (1) and inserting the following:

“(1)(A) In making such grants or contracts, the Commissioner shall target funds made available for any year to areas of personnel shortage.

“(B) Projects described in subsection (a) may include—

“(i) projects to train personnel in the areas of vocational rehabilitation counseling, rehabilitation technology, rehabilitation medicine, rehabilitation nursing, rehabilitation social work, rehabilitation psychiatry, rehabilitation psychology, rehabilitation dentistry, physical therapy, occupational therapy, speech pathology and audiology, physical education, therapeutic recreation, community rehabilitation programs, or prosthetics and orthotics;

“(ii) projects to train personnel to provide—

“(I) services to individuals with specific disabilities or specific impediments to rehabilitation, including individ-

uals who are members of populations that are unserved or underserved by programs under this Act;

“(II) job development and job placement services to individuals with disabilities;

“(III) supported employment services, including services of employment specialists for individuals with disabilities;

“(IV) specialized services for individuals with severe disabilities; or

“(V) recreation for individuals with disabilities; and

“(iii) projects to train personnel in other fields contributing to the rehabilitation of individuals with disabilities.”; and

(2) in paragraph (3)(A)—

(A) by inserting “, for any academic year beginning after June 1, 1992,” after “who receives a scholarship”; and

(B) by striking clause (i) and inserting the following: “(i) maintain employment—

“(I) in a nonprofit rehabilitation agency or related agency or in a State rehabilitation agency or related agency, including a professional corporation or professional practice group through which the individual has a service arrangement with the designated State agency;

“(II) on a full- or part-time basis; and

“(III) for a period of not less than the full-time equivalent of 2 years for each year for which assistance under this section was received,

within a period, beginning after the recipient completes the training for which the scholarship was awarded, of not more than the sum of the number of years in the period described in subclause (III) and 2 additional years; and”.

(c) **TECHNICIAN TRAINING; CAREER ADVANCEMENT AND COMPETENCY-BASED TRAINING.**—Section 302 (29 U.S.C. 774) is amended—

29 USC 771a.

(1) by redesignating subsections (d) through (f) as subsections (f) through (h), respectively; and

(2) by inserting after subsection (c) the following subsections:

“(d) In carrying out subsection (a), the Commissioner shall award two grants to States, public or nonprofit private agencies and organizations, and institutions of higher education to support the development of rehabilitation technician programs. Such programs shall be designed to train local employees, who are recruited from or reside in a community historically unserved or underserved by programs providing vocational rehabilitation services under this Act, to be liaisons between the community and vocational rehabilitation counselors. The rehabilitation technician program shall provide a mechanism through which individuals with disabilities residing in remote, isolated settings can successfully access vocational rehabilitation services.

“(e)(1) In carrying out subsection (a), the Commissioner shall award two grants to States, public or nonprofit private agencies and organizations, and institutions of higher education to support the formation of consortia or partnerships of public or nonprofit private entities for the purpose of providing opportunities for career advancement or competency-based training to current employees of public or nonprofit private agencies that provide services to

individuals with disabilities. Such opportunities shall include certificate or degree granting programs in vocational rehabilitation services and related services.

"(2) An entity that receives a grant under paragraph (1) may use the grant for purposes including—

"(A) establishing a program with an institution of higher education to develop creative new programs and coursework options, or to expand existing programs, concerning the fields of vocational rehabilitation services and related services, including—

"(i) providing release time for faculty and staff for curriculum development; and

"(ii) paying for instructional costs and startup and other program development costs;

"(B) establishing a career development mentoring program using faculty and professional staff members of participating agencies as role models, career sponsors, and academic advisors for experienced State, city, and county employees, and volunteers, who—

"(i) have demonstrated a commitment to working in the fields described in clause (i); and

"(ii) are enrolled in a program relating to such a field at an institution of higher education;

"(C) supporting a wide range of programmatic and research activities aimed at increasing opportunities for career advancement and competency-based training in such fields; and

"(D) identifying existing public or private agency and labor union personnel policies and benefit programs that may facilitate the ability of employees to take advantage of higher education opportunities, such as leave time and tuition reimbursement.

"(3) In making grants for projects under paragraph (1), the Commissioner shall ensure that the projects shall be geographically distributed throughout the United States in urban and rural areas.

"(4) The Commissioner shall, for the purpose of providing technical assistance to States or entities receiving grants under paragraph (1), enter into a cooperative agreement through a separate competition with an entity that has successfully demonstrated the capacity and expertise in the education, training, and retention of employees to serve individuals with disabilities through the use of consortia or partnerships established for the purpose of retraining the existing work force and providing opportunities for career enhancement.

"(5) The Commissioner may conduct an evaluation of projects funded under this subsection.

"(6) During the period in which an entity is receiving financial assistance under paragraph (1), the entity may not receive financial assistance under paragraph (4)."

(d) OFFICE OF DEAFNESS AND COMMUNICATIVE DISORDERS.—Section 302(f) (29 U.S.C. 774(f)) (as so redesignated by subsection (c)) is amended—

(1) in paragraph (1)—

(A) in the first sentence—

(i) by striking "deaf individuals" and inserting "individuals who are deaf and individuals who are deaf-blind";

Urban and  
rural areas.

Contracts.

29 USC 771a.

(ii) by striking "Office of Information and Resources for Individuals With Disabilities" and inserting "Office of Deafness and Communicative Disorders"; and

(iii) by striking "grants under this section" and inserting "grants"; and

(B) by striking the second sentence; and

(2) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by striking "this section" and inserting "paragraph (1)";

(B) in subparagraph (B), by striking "deaf individuals" and inserting "individuals who are deaf and individuals who are deaf-blind";

(C) in subparagraph (C), by adding "and" after the semicolon at the end;

(D) by striking subparagraph (D); and

(E) by redesignating subparagraph (E) as subparagraph (D).

(e) COMPENSATION OF EXPERTS AND CONSULTANTS.—Section 302(g) (29 U.S.C. 774(g)) (as so redesignated by subsection (c)) is amended— 29 USC 771a.

(1) in paragraph (1), by striking "rehabilitation facilities" and inserting "community rehabilitation programs";

(2) in paragraph (2), by striking "the daily rate payable for grade GS-18 of the General Schedule under section 5332" and inserting "the daily equivalent of the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382"; and

(3) by adding at the end the following:

"(3)(A) Subject to subparagraph (B), at least 15 percent of the sums appropriated to carry out this section shall be allocated to designated State agencies to be used, directly or indirectly, for projects for in-service training of rehabilitation personnel, including projects designed—

"(i) to address recruitment and retention of qualified rehabilitation professionals;

"(ii) to provide for succession planning;

"(iii) to provide for leadership development and capacity building; and

"(iv) for fiscal years 1993 and 1994, to provide training regarding the amendments to this Act made by the Rehabilitation Act Amendments of 1992.

"(B) If the allocation to designated State agencies required by subparagraph (A) would result in a lower level of funding for projects being carried out on the date of enactment of the Rehabilitation Act Amendments of 1992 by other recipients of funds under this section, the Commissioner may allocate less than 15 percent of the sums described in subparagraph (A) to designated State agencies for such in-service training."

(f) RELATIONSHIP TO TRAINING ACTIVITIES.—Section 302 (29 U.S.C. 774) (as amended by subsection (c)) is amended by adding at the end the following: 29 USC 771a.

"(i)(1) Consistent with paragraph (2), and consistent with the general authority set forth in this section to fund training activities, nothing in this Act shall be construed to prohibit the Commissioner from exercising authority under this title, or making available

funds appropriated to carry out this title, to fund the training activities described in section 803.

“(2) If the amount of funds appropriated for a fiscal year to carry out this section exceeds the amount of funds appropriated for the preceding fiscal year to carry out this section, adjusted by the percent by which the average of the estimated gross domestic product fixed-weight price index for that fiscal year differs from that estimated index for the preceding fiscal year, the amount of the excess shall be treated as if the excess were appropriated under title VIII.”.

**SEC. 303. COMMUNITY REHABILITATION PROGRAMS FOR INDIVIDUALS WITH DISABILITIES.**

(a) **AUTHORIZATION OF APPROPRIATIONS.**—Section 303(a) (29 U.S.C. 772(a)) (as so redesignated by section 301(b)(3)) is amended by striking “1987” and all that follows and inserting “1993 through 1997.”.

(b) **ESTABLISHMENT.**—Section 303(b) (29 U.S.C. 772(b)) is amended—

(1) in paragraph (1)—

(A) by striking “training services” and inserting “rehabilitation services or employment support services”, and

(B) by striking “rehabilitation facilities” and inserting “community rehabilitation programs”;

(2) in paragraph (2)—

(A) by striking subparagraph (A) and inserting the following:

“(A) For purposes of this section, vocational rehabilitation services shall include—

“(i) training with a view toward career advancement;

“(ii) training (including on-the-job training) in occupational skills; and

“(iii) services, including rehabilitation technology services, personal assistance services, and supported employment services and extended services, that—

“(I) are related to training described in clause (i) or (ii); and

“(II) are required by the individual to engage in such training.”; and

(B) in subparagraph (B)—

(i) by inserting after “(B)” the following new sentence: “Pursuant to regulations, payment of weekly allowances may be made to individuals receiving vocational rehabilitation services and related services under this section.”;

(ii) in the second sentence (as placed pursuant to clause (i) of this subparagraph), by striking “, and such allowances” and all that follows and inserting a period; and

(iii) in the last sentence—

(I) by striking “training services” and inserting “vocational rehabilitation services”; and

(II) by striking “gainful and suitable” and inserting “competitive”; and

(3) in paragraph (3)—

(A) in subparagraph (A), by striking "gainful and suitable employment" and inserting "competitive employment, or to place or retain such individual in competitive employment";

(B) in subparagraph (B)—

(i) by striking "suitable for and";

(ii) by striking "training" each place the term appears and inserting "vocational rehabilitation"; and

(iii) by striking "rehabilitation facility" and inserting "community rehabilitation program";

(C) in subparagraph (C), by striking "training" and inserting "vocational rehabilitation"; and

(D) in subparagraph (D), by striking "rehabilitation facility and the training" and inserting "community rehabilitation program and the vocational rehabilitation".

(c) ADDITIONAL GRANTS.—Section 303 (29 U.S.C. 772) is amended—

(1) by redesignating subsection (c) as subsection (d);

(2) by inserting after subsection (b) the following:

"(c) The Commissioner is also authorized to make grants, upon applications approved by the designated State agency, to public or nonprofit agencies, institutions, or organizations to assist them in meeting the cost of planning community rehabilitation programs, the cost of the services to be provided by such programs, and initial staffing costs of such programs."; and

(3) in subsection (d)(1) (as so redesignated by paragraph

(1))—

(A) by striking "rehabilitation facilities" and inserting "community rehabilitation programs"; and

(B) by striking "such facilities" and inserting "such programs".

(d) CONFORMING AMENDMENT.—The heading of section 303 (29 U.S.C. 772) is amended by striking "TRAINING" and inserting "REHABILITATION".

#### SEC. 304. LOAN GUARANTEES.

Section 304 (29 U.S.C. 773) (as so redesignated by section 301(b)(3)) is amended—

(1) in the heading for the section, by striking "REHABILITATION FACILITIES" and inserting "COMMUNITY REHABILITATION PROGRAMS";

(2) in subsection (a), by striking "facilities for" and inserting "community rehabilitation"; and

(3) in subsection (b)—

(A) by inserting "under special circumstances and" after "may,"; and

(B) by striking "rehabilitation facilities" and inserting "facilities for community rehabilitation programs".

#### SEC. 305. COMPREHENSIVE REHABILITATION CENTERS.

Section 305 (29 U.S.C. 775) is amended—

(1) in subsection (d)(1), by striking "facility" and inserting "center"; and

(2) in subsection (g), by striking "1987," and all that follows and inserting "1993 through 1997.".

#### SEC. 306. GENERAL GRANT AND CONTRACT REQUIREMENTS.

Section 306 (29 U.S.C. 776) is amended—

(1) in subsection (a), by striking “section 302” and inserting “section 303”;

(2) in subsection (b)(4), by striking “rehabilitation facilities” and inserting “facilities for community rehabilitation programs”;

(3) in subsection (f), by striking “rehabilitation facility” and inserting “facility for a community rehabilitation program”; and

(4) in subsection (h), by striking “establishing facilities” and inserting “developing or improving community rehabilitation programs”.

**SEC. 307. AUTHORIZATION OF APPROPRIATIONS FOR SPECIAL PROJECTS AND SUPPLEMENTARY SERVICES.**

Section 310 (29 U.S.C. 777) is amended—

(1) by striking “(a)” after “310.”;

(2) by striking “and 316” and inserting “312, and 316”;

(3) by striking “\$15,860,000” and all that follows and inserting “such sums as may be necessary for each of fiscal years 1993 through 1997.”; and

(4) by striking subsection (b).

**SEC. 308. SPECIAL DEMONSTRATION PROGRAMS.**

(a) GRANTS.—Section 311(a) (29 U.S.C. 777a(a)) is amended—

(1) in paragraph (1)—

(A) by striking “and, where appropriate, constructing facilities”; and

(B) by striking “blind or deaf individuals,” and all that follows and inserting the following: “individuals who are members of populations that are unserved or underserved by the programs under this Act, individuals who are blind, and individuals who are deaf.”;

(2) in paragraph (2), by striking “new careers;” and inserting “new careers and career advancement.”;

(3) in paragraph (3), by striking “and, where appropriate, renovating and constructing facilities”; and

(4) by striking the matter after and below paragraph (4).

(b) CERTAIN REQUIREMENTS.—Section 311 (29 U.S.C. 777a) is amended by striking subsection (b) and redesignating subsections (c) through (e) as subsections (b) through (d), respectively.

(c) SPECIAL PROJECTS AND DEMONSTRATIONS PROVIDING SUPPORTED EMPLOYMENT.—Section 311(c) (29 U.S.C. 777a(d)) (as so redesignated by subsection (b)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) by striking “rehabilitation facilities” and inserting “community rehabilitation programs”; and

(ii) by inserting before the period the following: “, including continuation of determinations of the effectiveness of natural supports or other alternatives to providing extended employment services”;

(B) in subparagraph (B)—

(i) by striking “and” before “(iii)”;

(ii) in clause (iii), by striking “community-based rehabilitation facilities” and inserting “community rehabilitation programs”; and

(C) by adding at the end the following subparagraph:

"(C) Not less than two such grants shall serve individuals who either are low-functioning and deaf or low-functioning and hard-of-hearing.;"

(2) in paragraph (3)(A), by striking ", 1988, and on each subsequent June 1" and inserting "of each year"; and

(3) in paragraph (4), by striking "\$9,000,000" and all that follows and inserting "such sums as may be necessary for each of fiscal years 1993 through 1997."

(d) MODEL STATEWIDE TRANSITIONAL PLANNING SERVICES.—Section 311(d) (29 U.S.C. 777a(e)) (as so redesignated by subsection (b)) is amended—

(1) by striking paragraph (3);

(2) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively;

(3) in paragraph (3)(A) (as redesignated by paragraph (2) of this subsection)—

(A) by striking clause (ii); and

(B) by striking the clause designation; and

(4) in paragraph (4) (as redesignated by paragraph (2) of this subsection), by striking "\$450,000" and all that follows and inserting "such sums as may be necessary for each of the fiscal years 1993 through 1997."

(e) EDUCATIONAL AND VOCATIONAL REHABILITATION DEMONSTRATION PROJECTS REGARDING LOW-FUNCTIONING.—Section 311 (29 U.S.C. 777a), as amended by subsection (b), is amended by adding at the end the following new subsection:

"(e)(1) The Commissioner may make grants to public or private institutions to pay for the cost of developing special projects and demonstration projects to address the general education, counseling, vocational training, work transition, supported employment, job placement, followup, and community outreach needs of individuals who are either low-functioning and deaf or low-functioning and hard-of-hearing. Such projects shall provide educational and vocational rehabilitation services that are not otherwise available in the region involved and shall maximize the potential of such individuals, including individuals who are deaf and have additional severe disabilities.

"(2) The Commissioner shall monitor the activities of the recipients of grants under this subsection to ensure that the recipients carry out the projects in accordance with paragraph (1), that the recipients coordinate the projects as described in paragraph (3), and that information about innovative methods of service delivery developed by such projects is disseminated.

"(3) The Commissioner shall prepare and submit an annual report to Congress that includes an assessment of the manner in which the recipients carrying out the projects coordinate the projects with projects carried out by other public or nonprofit agencies serving individuals who are deaf, to expand or improve services for such individuals."

Reports.

(f) RELATIONSHIP TO SPECIAL DEMONSTRATION PROGRAMS.—Section 311 (29 U.S.C. 777a), as amended by subsection (e), is amended by adding at the end the following new subsection:

"(f)(1) Consistent with paragraph (2), and consistent with the general authority set forth in this section to fund special demonstration programs, projects, and activities, nothing in this Act shall be construed to prohibit the Commissioner from exercising authority under this title, or making available funds appropriated to carry out this title, to fund programs, projects, and activities described in section 802.



"(2) If the amount of funds appropriated for a fiscal year to carry out this section exceeds the amount of funds appropriated for the preceding fiscal year to carry out this section, adjusted by the percent by which the average of the estimated gross domestic product fixed-weight price index for that fiscal year differs from that estimated index for the preceding fiscal year, the amount of the excess shall be treated as if the excess were appropriated under title VIII."

**SEC. 309. MIGRATORY WORKERS.**

(a) **COLLABORATION.**—The first sentence of section 312 (29 U.S.C. 777b) is amended—

(1) by inserting "(a)" after "312."; and

(2) by inserting "to nonprofit agencies working in collaboration with such State agency," after "section 101,".

(b) **AUTHORIZATION OF APPROPRIATIONS.**—Section 312 (29 U.S.C. 777b) is amended by adding at the end the following new subsection:

"(b) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated for fiscal years 1993 through 1997 such sums as may be necessary to carry out this section."

**SEC. 310. SPECIAL RECREATIONAL PROGRAMS.**

(a) **GRANTS.**—Section 316(a) (29 U.S.C. 777f(a)) is amended—

(1) in paragraph (1)—

(A) in the first sentence—

(i) by striking "part or all" and inserting "the Federal share"; and

(ii) by inserting "employment," before "mobility"; and

(B) in the second sentence, by inserting "vocational skills development," before "leisure education,";

(2) in paragraph (2), by striking "a minimum of a three-year period." and inserting "a period of not more than 3 years. Such a grant shall not be renewable, except that the Commissioner may renew such a grant if the Commissioner determines that the grant recipient will continue to develop model or innovative programs of exceptional merit or will contribute substantially to the development or improvement of special recreational programs in other locations.";

(3) in paragraph (3), by striking "to be made, and that" and all that follows and inserting "to be made."; and

(4) by adding at the end the following new paragraphs:

"(4) To be eligible to receive a grant under this section, a State, agency, or organization shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require, including a description of—

"(A) the manner in which the findings and results of the project will be made generally available; and

"(B) the means by which the service program will be continued after Federal assistance ends.

"(5) Recreation programs funded under this section shall maintain, at a minimum, the same level of services over a 3-year project period.

"(6) The Commissioner shall, not later than 180 days after the date of enactment of the Rehabilitation Act Amendments of 1992, develop means to objectively evaluate, and encourage the replication of, activities assisted by this section.

"(7) The Commissioner shall require each recipient of a grant under this section to annually prepare and submit a report on

the results of the activities assisted by the grant. The Commissioner shall not make financial assistance available to a grant recipient for a subsequent year until the Commissioner has received and evaluated such a report from the recipient regarding the current year.

“(8) The Commissioner shall annually issue and provide for the dissemination of a report describing the findings and results of programs funded by this section.

Reports.

“(9) The Federal share of the costs of the recreation programs shall be 100 percent for the first year of the grant, 75 percent for the second year, and 50 percent for the third year.”.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 316(b) (29 U.S.C. 777f(b)) is amended by striking “\$2,330,000” and all that follows and inserting “such sums as may be necessary for each of the fiscal years 1993 through 1997.”.

## TITLE IV—NATIONAL COUNCIL ON DISABILITY

### SEC. 401. ESTABLISHMENT OF NATIONAL COUNCIL ON DISABILITY.

(a) IN GENERAL.—Section 400(a) (29 U.S.C. 780(a)) is amended—

(1) in paragraph (1)—

(A) by inserting “(A)” after “(1)”;

(B) by inserting after the first sentence the following:

“(B) The President shall select members of the National Council after soliciting recommendations from representatives of—

“(i) organizations representing a broad range of individuals with disabilities; and

“(ii) organizations interested in individuals with disabilities.

“(C) The members of the National Council shall be individuals with disabilities or individuals who have substantial knowledge or experience relating to disability policy or programs.”;

(C) in the last sentence, by striking “At least five members” and inserting “A majority of the members”; and

(D) by adding at the end the following sentence: “The members of the National Council shall be broadly representative of minority and other individuals and groups.”; and

(2) by striking paragraph (2) and inserting the following:

“(2) The purpose of the National Council is to promote policies, programs, practices, and procedures that—

“(A) guarantee equal opportunity for all individuals with disabilities, regardless of the nature or severity of the disability; and

“(B) empower individuals with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society.”.

(b) TERMS.—Section 400(b) (29 U.S.C. 780(b)) is amended—

(1) by striking paragraph (1) and inserting the following:

“(1) Each member of the National Council shall serve for a term of 3 years, except that the terms of service of the members initially appointed after the date of enactment of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 shall be (as specified by the President) for such fewer number of years as will provide for the expiration of terms on a staggered basis.”; and

(2) by striking paragraph (2) and inserting the following:  
 “(2)(A) No member of the Council may serve more than two consecutive full terms beginning on the date of initial service on the Council. Members may serve after the expiration of their terms until their successors have taken office.

“(B) As used in this paragraph:

“(i) The term ‘full term’ means a term of 3 years.

“(ii) The term ‘date of initial service’ means, with respect to a member, the date on which the member is sworn in.”.

#### SEC. 402. DUTIES OF NATIONAL COUNCIL.

(a) DUTIES.—Section 401(a) (29 U.S.C. 781(a)) is amended—

(1) by striking paragraph (1) and inserting the following:

“(1) provide advice to the Director with respect to the policies and conduct of the National Institute on Disability and Rehabilitation Research, including ways to improve research concerning individuals with disabilities and the methods of collecting and disseminating findings of such research;”;

(2) by redesignating paragraphs (4), (5), (6), (7), and (8) as paragraphs (5), (6), (8), (9), and (10);

(3) by inserting after paragraph (3) the following paragraph:

“(4) provide advice regarding priorities for the activities of the Interagency Disability Coordinating Council and review the recommendations of such Council for legislative and administrative changes to ensure that such recommendations are consistent with the purposes of the Council to promote the full integration, independence, and productivity of individuals with disabilities;”;

(4) in paragraph (5) (as so redesignated by paragraph (2) of this subsection)—

(A) in subparagraph (A), by striking “all policies, programs, and activities” and inserting “policies, programs, practices, and procedures”;

(B) in subparagraph (B), by inserting “and regulations” after “statutes”; and

(C) in the matter following subparagraph (B), by striking “activities, and statutes” and inserting “practices, procedures, statutes, and regulations”;

(5) in paragraph (6) (as so redesignated by paragraph (2) of this subsection), by striking “and activities” and all that follows and inserting “practices, and procedures facilitate or impede the promotion of the policies set forth in subparagraphs (A) and (B) of section 400(a)(2);”;

(6) by inserting after paragraph (6) (as redesignated by paragraph (2) of this subsection) the following paragraph:

“(7) gather information about the implementation, effectiveness, and impact of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);”;

(7) in paragraph (8) (as so redesignated by paragraph (2) of this subsection), to read as follows:

“(8) make recommendations to the President, the Congress, the Secretary, the Director of the National Institute on Disability and Rehabilitation Research, and other officials of Federal agencies, respecting ways to better promote the policies set forth in section 400(a)(2);”;

(8) in paragraph (9) (as so redesignated by paragraph (2) of this subsection), to read as follows:

“(9) not later than March 31 of each year, prepare and submit to the Congress and the President a report containing

a summary of the activities and accomplishments of the Council with respect to the duties described in paragraphs (1) through (8);”;

(9) in paragraph (10) (as redesignated by paragraph (2) of this subsection), by striking the period and inserting “; and”; and

(10) by adding at the end the following:

“(11) review and evaluate on a continuing basis new and emerging disability policy issues affecting individuals with disabilities at the Federal, State, and local levels, and in the private sector, including the need for and coordination of adult services, access to personal assistance services, school reform efforts and the impact of such efforts on individuals with disabilities, access to health care, and policies that operate as disincentives for the individuals to seek and retain employment.”.

(b) REPORT.—Section 401(b) (29 U.S.C. 781(b)) is amended to read as follows:

“(b)(1) Not later than October 31, 1993, and annually thereafter, the National Council shall prepare and submit to the President and the appropriate committees of the Congress a report entitled ‘National Disability Policy: A Progress Report’.

“(2) The report shall assess the status of the Nation in achieving the policies set forth in section 400(a)(2), with particular focus on the new and emerging issues impacting on the lives of individuals with disabilities. The report shall present, as appropriate, available data on health, housing, employment, insurance, transportation, recreation, training, prevention, early intervention, and education. The report shall include recommendations for policy change.

“(3) In determining the issues to focus on and the findings, conclusions, and recommendations to include in the report, the Council shall seek input from the public, particularly individuals with disabilities, representatives of organizations representing a broad range of individuals with disabilities, and organizations and agencies interested in individuals with disabilities.”.

#### **SEC. 403. COMPENSATION OF NATIONAL COUNCIL MEMBERS.**

Section 402(a) (29 U.S.C. 782(a)) is amended by striking “rate of basic pay payable for grade GS-18 of the General Schedule under section 5332” and inserting “rate of pay for level 4 of the Senior Executive Service Schedule under section 5382”.

#### **SEC. 404. STAFF OF NATIONAL COUNCIL.**

Section 403(b)(1) (29 U.S.C. 783(b)(1)) is amended by striking “annual rate of basic pay payable for grade GS-18 of the General Schedule under section 5332” and inserting “rate of pay for level 4 of the Senior Executive Service Schedule under section 5382”.

#### **SEC. 405. ADMINISTRATIVE POWERS OF NATIONAL COUNCIL.**

Section 404 (29 U.S.C. 784) is amended by adding at the end the following subsection:

“(e) The National Council may use, with the consent of the agencies represented on the Interagency Disability Coordinating Council, and as authorized in title V, such services, personnel, information, and facilities as may be needed to carry out its duties under this title, with or without reimbursement to such agencies.”.

#### **SEC. 406. AUTHORIZATION OF APPROPRIATIONS.**

Section 405 (29 U.S.C. 785) is amended by striking “1987” and all that follows and inserting “1993 through 1997.”.

## TITLE V—RIGHTS AND ADVOCACY

### SEC. 501. RIGHTS AND ADVOCACY.

(a) **TITLE.**—Title V (29 U.S.C. 790 et seq.) is amended by striking the title heading and inserting the following:

“TITLE V—RIGHTS AND ADVOCACY”.

(b) **TABLE OF CONTENTS.**—The table of contents relating to the Act is amended by striking the item relating to the title heading for title V and inserting the following:

“TITLE V—RIGHTS AND ADVOCACY”.

### SEC. 502. EFFECT ON EXISTING LAW.

29 USC 790.

(a) **REPEAL.**—Title V (29 U.S.C. 790 et seq.) is amended by repealing section 500.

(b) **TABLE OF CONTENTS.**—The table of contents relating to the Act is amended by striking the item relating to section 500.

### SEC. 503. EMPLOYMENT OF INDIVIDUALS WITH DISABILITIES.

(a) **ESTABLISHMENT.**—Section 501(a) (29 U.S.C. 791(a)) is amended—

(1) in the first sentence, by striking “the Secretary of Veterans Affairs, and” and inserting “the Director of the Office of Personnel Management, the Secretary of Veterans Affairs”; and

(2) by amending the second sentence to read as follows: “Either the Director of the Office of Personnel Management and the Chairman of the Commission shall serve as co-chairpersons of the Committee or the Director or Chairman shall serve as the sole chairperson of the Committee, as the Director and Chairman jointly determine, from time to time, to be appropriate.”

(b) **STANDARDS.**—Section 501 (29 U.S.C. 791) is amended by adding at the end the following new subsection:

“(g) The standards used to determine whether this section has been violated in a complaint alleging nonaffirmative action employment discrimination under this section shall be the standards applied under title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.) and the provisions of sections 501 through 504, and 510, of the Americans with Disabilities Act of 1990 (42 U.S.C. 12201–12204 and 12210), as such sections relate to employment.”

### SEC. 504. REFERENCES TO THE ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD.

(a) **ACCESS BOARD.**—Section 502 (29 U.S.C. 792) is amended—

(1) in the matter preceding subparagraph (A) of subsection (a)(1), by striking “the ‘Board’” and inserting “the ‘Access Board’”;

(2) by striking “the Board” each place the term appears and inserting “the Access Board”; and

(3) by striking “The Board” each place the term appears and inserting “The Access Board”.

(b) **COMPOSITION.**—Section 502(a) (29 U.S.C. 792(a)) of the Act is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) by striking "Twelve" and inserting "Thirteen"; and

(ii) by striking "six" and inserting "at least a majority"; and

(B) in subparagraph (B), by inserting after clause (xi) the following:

"(xii) Department of Commerce.";

(2) in paragraph (2)(A)—

(A) in the first sentence—

(i) by inserting "(i)" after "(A)"; and

(ii) by striking "three years" and inserting "4 years, except as provided in clause (ii)";

(B) in the second sentence, by striking "four" and inserting "at least three"; and

(C) by adding at the end the following:

"(ii)(I) One member appointed for a term beginning December 4, 1992 shall serve for a term of 3 years.

"(II) One member appointed for a term beginning December 4, 1993 shall serve for a term of 2 years.

"(III) One member appointed for a term beginning December 4, 1994 shall serve for a term of 1 year.

"(IV) Members appointed for terms beginning before December 4, 1992 shall serve for terms of 3 years.";

(3) in paragraph (3), by striking "such an" and inserting "a Federal"; and

(4) in paragraph (5)(A), by striking "the daily rate prescribed for GS-18 under section 5332" and inserting "the daily equivalent of the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382".

(c) FUNCTION.—Section 502(b) (29 U.S.C. 792(b)) is amended to read as follows:

"(b) It shall be the function of the Access Board to—

"(1) ensure compliance with the standards prescribed pursuant to the Act entitled 'An Act to ensure that certain buildings financed with Federal funds are so designed and constructed as to be accessible to the physically handicapped', approved August 12, 1968 (commonly known as the Architectural Barriers Act of 1968; 42 U.S.C. 4151 et seq.) (including the application of such Act to the United States Postal Service), including enforcing all standards under such Act, and ensuring that all waivers and modifications to the standards are based on findings of fact and are not inconsistent with the provisions of this section;

"(2) develop advisory guidelines for, and provide appropriate technical assistance to, individuals or entities with rights or duties under regulations prescribed pursuant to this title or titles II and III of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131 et seq. and 12181 et seq.) with respect to overcoming architectural, transportation, and communication barriers;

"(3) establish and maintain minimum guidelines and requirements for the standards issued pursuant to the Act commonly known as the Architectural Barriers Act of 1968 and titles II and III of the Americans with Disabilities Act of 1990;

"(4) promote accessibility throughout all segments of society;

"(5) investigate and examine alternative approaches to the architectural, transportation, communication, and attitudinal barriers confronting individuals with disabilities, particularly

with respect to telecommunications devices, public buildings and monuments, parks and parklands, public transportation (including air, water, and surface transportation, whether interstate, foreign, intrastate, or local), and residential and institutional housing;

"(6) determine what measures are being taken by Federal, State, and local governments and by other public or nonprofit agencies to eliminate the barriers described in paragraph (5);

"(7) promote the use of the International Accessibility Symbol in all public facilities that are in compliance with the standards prescribed by the Administrator of General Services, the Secretary of Defense, and the Secretary of Housing and Urban Development pursuant to the Act commonly known as the Architectural Barriers Act of 1968;

Reports.

"(8) make to the President and to the Congress reports that shall describe in detail the results of its investigations under paragraphs (5) and (6);

"(9) make to the President and to the Congress such recommendations for legislative and administrative changes as the Access Board determines to be necessary or desirable to eliminate the barriers described in paragraph (5); and

Handicapped.

"(10) ensure that public conveyances, including rolling stock, are readily accessible to, and usable by, individuals with physical disabilities."

(d) INVESTIGATIONS AND HEARINGS.—Section 502(d) (29 U.S.C. 792(d)) is amended—

(1) in paragraph (1), in the first sentence—

(A) by striking "In carrying out" and all that follows through "shall conduct" and inserting "The Access Board shall conduct"; and

(B) by striking "insure" and inserting "ensure"; and

(2) by striking paragraph (3).

(e) INTERAGENCY AGREEMENTS.—Section 502(f) (29 U.S.C. 792(f)) is amended—

(1) by striking "(f) The departments" and inserting the following:

"(f)(1)(A) In carrying out the technical assistance responsibilities of the Access Board under this section, the Board may enter into an interagency agreement with another Federal department or agency.

"(B) Any funds appropriated to such a department or agency for the purpose of providing technical assistance may be transferred to the Access Board. Any funds appropriated to the Access Board for the purpose of providing such technical assistance may be transferred to such department or agency.

"(C) The Access Board may arrange to carry out the technical assistance responsibilities of the Board under this section through such other departments and agencies for such periods as the Board determines to be appropriate.

"(D) The Access Board shall establish a procedure to ensure separation of its compliance and technical assistance responsibilities under this section.

"(2) The departments"; and

(2) in the second sentence of paragraph (2) (as so designated by paragraph (1) of this subsection)—

(A) by striking "subsection" and inserting "paragraph";

(B) by striking "Secretary" and inserting "Chairperson"; and

(C) by striking "the daily pay rate for a person employed as a GS-18 under section 5332" and inserting

"the daily equivalent of the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382".

(f) REPORT.—Section 502(g) (29 U.S.C. 792(g)) is amended—

(1) by inserting "(1)" after the subsection designation;

(2) in paragraph (1) (as so designated by paragraph (1) of this subsection)—

(A) in the second sentence, by striking "clauses (5) and (6) of subsection (b) of this section" and inserting "paragraphs (8) and (9) of such subsection"; and

(B) by striking the third sentence and all that follows; and

(3) by adding at the end the following:

"(2) The Access Board shall, at the same time that the Access Board transmits the report required under section 7(b) of the Act commonly known as the Architectural Barriers Act of 1968 (42 U.S.C. 4157(b)), transmit the report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate."

(g) REPORT CONTAINING ASSESSMENT.—Section 502(h) (29 U.S.C. 792(h)) is amended—

(1) by striking paragraph (1);

(2) by redesignating paragraph (2) as paragraph (1);

(3) in paragraph (1) (as so redesignated by paragraph (2) of this subsection), by striking the second and third sentences; and

(4) by adding at the end the following paragraph:

"(2)(A) The Access Board may accept, hold, administer, and utilize gifts, devises, and bequests of property, both real and personal, for the purpose of aiding and facilitating the functions of the Access Board under paragraphs (5) and (7) of subsection (b). Gifts and bequests of money and proceeds from sales of other property received as gifts, devises, or bequests shall be deposited in the Treasury and shall be disbursed upon the order of the Chairperson. Property accepted pursuant to this section, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gifts, devises, or bequests. For purposes of Federal income, estate, or gift taxes, property accepted under this section shall be considered as a gift, devise, or bequest to the United States.

"(B) The Access Board shall publish regulations setting forth the criteria the Board will use in determining whether the acceptance of gifts, devises, and bequests of property, both real and personal, would reflect unfavorably upon the ability of the Board or any employee to carry out the responsibilities or official duties of the Board in a fair and objective manner, or would compromise the integrity of or the appearance of the integrity of a Government program or any official involved in that program."

Regulations.

(h) AUTHORIZATION OF APPROPRIATIONS.—Section 502(i) (29 U.S.C. 792(i)) is amended by striking "fiscal years 1987 through 1992" and all that follows and inserting "fiscal years 1993 through 1997."

#### SEC. 505. EMPLOYMENT UNDER FEDERAL CONTRACTS.

(a) CONTRACTS.—Section 503(a) (29 U.S.C. 793(a)) is amended—

(1) by striking "\$2,500" each place the term appears and inserting "\$10,000"; and

(2) in the first sentence, by striking ", in employing persons to carry out such contract,".



- (b) **WAIVER.**—Section 503(c) (29 U.S.C. 793(c)) is amended—  
 (1) by inserting “(1)” after “(c)”; and  
 (2) by adding at the end the following:

“(2)(A) The Secretary of Labor may waive the requirements of the affirmative action clause required by regulations promulgated under subsection (a) with respect to any of a prime contractor’s or subcontractor’s facilities that are found to be in all respects separate and distinct from activities of the prime contractor or subcontractor related to the performance of the contract or subcontract, if the Secretary of Labor also finds that such a waiver will not interfere with or impede the effectuation of this Act.

Regulations.

“(B) Such waivers shall be considered only upon the request of the contractor or subcontractor. The Secretary of Labor shall promulgate regulations that set forth the standards used for granting such a waiver.”

(c) **STANDARDS AND PROCEDURES.**—Section 503 (29 U.S.C. 793) is amended by adding at the end the following:

“(d) The standards used to determine whether this section has been violated in a complaint alleging nonaffirmative action employment discrimination under this section shall be the standards applied under title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.) and the provisions of sections 501 through 504, and 510, of the Americans with Disabilities Act of 1990 (42 U.S.C. 12201–12204 and 12210), as such sections relate to employment.

“(e) The Secretary shall develop procedures to ensure that administrative complaints filed under this section and under the Americans with Disabilities Act of 1990 are dealt with in a manner that avoids duplication of effort and prevents imposition of inconsistent or conflicting standards for the same requirements under this section and the Americans with Disabilities Act of 1990.”

**SEC. 506. NONDISCRIMINATION UNDER FEDERAL GRANTS AND PROGRAMS.**

Section 504 (29 U.S.C. 794) is amended by adding at the end the following new subsection:

“(d) The standards used to determine whether this section has been violated in a complaint alleging employment discrimination under this section shall be the standards applied under title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.) and the provisions of sections 501 through 504, and 510, of the Americans with Disabilities Act of 1990 (42 U.S.C. 12201–12204 and 12210), as such sections relate to employment.”

**SEC. 507. SECRETARIAL RESPONSIBILITIES.**

(a) **ACCESS.**—Subsections (a) and (c) of section 506 (29 U.S.C. 794b) are amended by inserting “Access” before “Board” each place the term appears.

(b) **COMMUNITY REHABILITATION PROGRAMS.**—Section 506(a)(1) (29 U.S.C. 794b(a)(1)) is amended by striking “rehabilitation facilities” and inserting “community rehabilitation programs”.

(c) **COMPENSATION.**—Section 506(b) (29 U.S.C. 794b(b)) is amended by striking “the rate of basic pay payable for grade GS-18 of the General Schedule, under section 5332” and inserting “the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382”.

(d) CONFORMING AMENDMENT.—Section 506(c) (29 U.S.C. 794b(c)) is amended by striking “502(h)(2)” and inserting “502(h)(1)”.

**SEC. 508. INTERAGENCY DISABILITY COORDINATING COUNCIL.**

(a) IN GENERAL.—Section 507 (29 U.S.C. 794c) is amended to read as follows:

**“SEC. 507. INTERAGENCY DISABILITY COORDINATING COUNCIL.**

“(a) ESTABLISHMENT.—There is hereby established an Interagency Disability Coordinating Council (hereafter in this section referred to as the ‘Council’) composed of the Secretary of Education, the Secretary of Health and Human Services, the Secretary of Labor, the Secretary of Housing and Urban Development, the Secretary of Transportation, the Assistant Secretary of the Interior for Indian Affairs, the Attorney General, the Director of the Office of Personnel Management, the Chairperson of the Equal Employment Opportunity Commission, the Chairperson of the Architectural and Transportation Barriers Compliance Board, and such other officials as may be designated by the President.

“(b) DUTIES.—The Council shall—

“(1) have the responsibility for developing and implementing agreements, policies, and practices designed to maximize effort, promote efficiency, and eliminate conflict, competition, duplication, and inconsistencies among the operations, functions, and jurisdictions of the various departments, agencies, and branches of the Federal Government responsible for the implementation and enforcement of the provisions of this title, and the regulations prescribed thereunder;

“(2) be responsible for developing and implementing agreements, policies, and practices designed to coordinate operations, functions, and jurisdictions of the various departments and agencies of the Federal Government responsible for promoting the full integration into society, independence, and productivity of individuals with disabilities; and

“(3) carry out such studies and other activities, subject to the availability of resources, with advice from the National Council on Disability, in order to identify methods for overcoming barriers to integration into society, independence, and productivity of individuals with disabilities.

“(c) REPORT.—On or before July 1 of each year, the Interagency Disability Coordinating Council shall prepare and submit to the President and to the Congress a report of the activities of the Council designed to promote and meet the employment needs of individuals with disabilities, together with such recommendations for legislative and administrative changes as the Council concludes are desirable to further promote this section, along with any comments submitted by the National Council on Disability as to the effectiveness of such activities and recommendations in meeting the needs of individuals with disabilities. Nothing in this section shall impair any responsibilities assigned by any Executive order to any Federal department, agency, or instrumentality to act as a lead Federal agency with respect to any provisions of this title.”.

(b) TECHNICAL AMENDMENT.—The table of contents relating to the Act is amended by striking the item relating to section 507 and inserting the following item:

“Sec. 507. Interagency Disability Coordinating Council.”.

**SEC. 509. ELECTRONIC AND INFORMATION TECHNOLOGY ACCESSIBILITY GUIDELINES.**

(a) **GUIDELINES.**—Section 508 (29 U.S.C. 794d) is amended to read as follows:

**"SEC. 508. ELECTRONIC AND INFORMATION TECHNOLOGY ACCESSIBILITY GUIDELINES.**

"(a) **GUIDELINES.**—The Secretary, through the Director of the National Institute on Disability and Rehabilitation Research, and the Administrator of the General Services Administration, in consultation with the electronics and information technology industry and the Interagency Council on Accessible Technology, shall develop and establish guidelines for Federal agencies for electronic and information technology accessibility designed to ensure, regardless of the type of medium, that individuals with disabilities can produce information and data, and have access to information and data, comparable to the information and data, and access, respectively, of individuals who are not individuals with disabilities. Such guidelines shall be revised, as necessary, to reflect technological advances or changes.

"(b) **COMPLIANCE.**—Each Federal agency shall comply with the guidelines established under this section."

(b) **TABLE OF CONTENTS.**—The table of contents relating to the Act is amended by striking the item relating to section 508 and inserting the following:

"Sec. 508. Electronic and information technology accessibility guidelines."

**SEC. 510. PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS.**

(a) **IN GENERAL.**—Title V (29 U.S.C. 790 et seq.) is amended by adding at the end the following new section:

**"SEC. 509. PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS.**

"(a) **PURPOSE.**—The purpose of this section is to support a system in each State to protect the legal and human rights of individuals with disabilities who—

"(1) are ineligible for client assistance programs under section 112; and

"(2) are ineligible for protection and advocacy programs under part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.) and the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10801 et seq.).

"(b) **APPROPRIATIONS LESS THAN \$5,500,000.**—

"(1) **ALLOTMENTS.**—For any fiscal year in which the amount appropriated to carry out this section is less than \$5,500,000, the Commissioner may make grants from such amount to eligible systems within States to plan for, develop outreach strategies for, and carry out protection and advocacy programs authorized under this section for individuals with disabilities who meet the requirements of paragraphs (1) and (2) of subsection (a).

"(2) **OTHER JURISDICTIONS.**—For the purposes of this subsection, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau shall not be considered to be States.

"(c) **APPROPRIATIONS OF \$5,500,000 OR MORE.**—

"(1) **TECHNICAL ASSISTANCE.**—For any fiscal year in which the amount appropriated to carry out this section equals or

exceeds \$5,500,000, the Commissioner shall set aside not less than 1.8 percent and not more than 2.2 percent of the amount to provide training and technical assistance to the systems established under this section.

“(2) ALLOTMENTS.—For any such fiscal year, after the reservation required by paragraph (1) has been made, the Commissioner shall make allotments from the remainder of such amount in accordance with paragraph (3) to eligible systems within States to enable such systems to carry out protection and advocacy programs authorized under this section for such individuals.

“(3) SYSTEMS WITHIN STATES.—

“(A) POPULATION BASIS.—Except as provided in subparagraph (B), from such remainder for each such fiscal year, the Commissioner shall make an allotment to the eligible system within a State of an amount bearing the same ratio to such remainder as the population of the State bears to the population of all States.

“(B) MINIMUMS.—Subject to the availability of appropriations to carry out this section, and except as provided in paragraph (4), the allotment to any system under subparagraph (A) shall be not less than \$100,000 or one-third of one percent of the remainder for the fiscal year for which the allotment is made, whichever is greater, and the allotment to any system under this section for any fiscal year that is less than \$100,000 or one-third of one percent of such remainder shall be increased to the greater of the two amounts.

“(4) SYSTEMS WITHIN OTHER JURISDICTIONS.—

“(A) IN GENERAL.—For the purposes of this subsection, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau shall not be considered to be States.

“(B) ALLOTMENT.—The eligible system within a jurisdiction described in subparagraph (A) shall be allotted not less than \$50,000 for the fiscal year for which the allotment is made, except that the Republic of Palau may receive such allotment under this section only until the Compact of Free Association with Palau takes effect.

“(5) ADJUSTMENT FOR INFLATION.—

“(A) STATES.—For purposes of determining the minimum amount of an allotment under paragraph (3)(B), the amount \$100,000 shall, in the case of such allotments for fiscal year 1994 and subsequent fiscal years, be increased to the extent necessary to offset the effects of inflation occurring since October 1992, as measured by the percentage increase in the Consumer Price Index For All Urban Consumers (U.S. city average) during the period ending on April 1 of the fiscal year preceding the fiscal year for which the allotment is to be made.

“(B) CERTAIN TERRITORIES.—For purposes of determining the minimum amount of an allotment under paragraph (4)(B), the amount \$50,000 shall, in the case of such allotments for fiscal year 1994 and subsequent fiscal years, be increased to the extent necessary to offset the effects of inflation occurring since October 1992, as measured by the percentage increase in the Consumer Price Index For

All Urban Consumers (U.S. city average) during the period ending on April 1 of the fiscal year preceding the fiscal year for which the allotment is to be made.

“(d) **PROPORTIONAL REDUCTION.**—Amounts necessary to provide allotments to systems within States in accordance with subsection (c)(3)(B) as increased under subsection (c)(5), or to provide allotments in accordance with subsection (c)(4)(B) as increased in accordance with subsection (c)(5), shall be derived by proportionately reducing the allotments of the remaining systems within States under subsection (c)(3), but with such adjustments as may be necessary to prevent the allotment of any such remaining systems within States from being thereby reduced to less than the greater of \$100,000 or one-third of one percent of the sums made available for purposes of this section for the fiscal year for which the allotment is made, as increased in accordance with subsection (c)(5).

“(e) **REALLOTMENT.**—Whenever the Commissioner determines that any amount of an allotment to a system within a State for any fiscal year described in subsection (c)(1) will not be expended by such system in carrying out the provisions of this section, the Commissioner shall make such amount available for carrying out the provisions of this section to one or more of the systems that the Commissioner determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a system for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the system (as determined under the preceding provisions of this section) for such year.

“(f) **APPLICATION.**—In order to receive assistance under this section, an eligible system shall submit an application to the Commissioner, at such time, in such form and manner, and containing such information and assurances as the Commissioner determines necessary to meet the requirements of this section, including assurances that the eligible system will—

“(1) have in effect a system to protect and advocate the rights of individuals with disabilities;

“(2) have the same general authorities, including access to records and program income, as are set forth in part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.);

“(3) have the authority to pursue legal, administrative, and other appropriate remedies or approaches to ensure the protection of, and advocacy for, the rights of such individuals within the State who are ineligible for protection and advocacy programs under part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.) and the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10801 et seq.) or client assistance programs under section 112;

“(4) provide information on and make referrals to programs and services addressing the needs of individuals with disabilities in the State;

“(5) develop a statement of objectives and priorities on an annual basis, and provide to the public, including individuals with disabilities and, as appropriate, their representatives, an opportunity to comment on the objectives and priorities established by, and activities of, the system including—

"(A) the objectives and priorities for the activities of the system for each year and the rationale for the establishment of such objectives and priorities; and

"(B) the coordination of programs provided through the system under this section with the advocacy programs of the client assistance program under section 112, the State long-term care ombudsman program established under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.), the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.), and the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10801 et seq.);

"(6) establish a grievance procedure for clients or prospective clients of the system to ensure that individuals with disabilities are afforded equal opportunity to access the services of the system; and

"(7) provide assurances to the Commissioner that funds made available under this section will be used to supplement and not supplant the non-Federal funds that would otherwise be made available for the purpose for which Federal funds are provided.

"(g) CARRYOVER AND DIRECT PAYMENT.—

"(1) DIRECT PAYMENT.—Notwithstanding any other provision of law, the Commissioner shall pay directly to any system that complies with the provisions of this section, the amount of the allotment of the State involved under this section, unless the State provides otherwise.

"(2) CARRYOVER.—Any amount paid to a State for a fiscal year that remains unobligated at the end of such year shall remain available to such State for obligation during the next fiscal year for the purposes for which such amount was paid.

"(h) LIMITATION ON DISCLOSURE REQUIREMENTS.—For purposes of any audit, report, or evaluation of the performance of the program established under this section, the Commissioner shall not require such a program to disclose the identity of, or any other personally identifiable information related to, any individual requesting assistance under such program.

"(i) ELIGIBILITY FOR ASSISTANCE.—As used in this section, the term 'eligible system' means a protection and advocacy system that is established under part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.) and that meets the requirements of subsection (f).

"(j) ADMINISTRATIVE COST.—An eligible system may not use more than 5 percent of any allotment under subsection (c) for the cost of administration of the system required by this section.

"(k) DELEGATION.—The Commissioner may delegate the administration of this program to the Commissioner of the Administration on Developmental Disabilities within the Department of Health and Human Services.

"(l) REPORT.—The Commissioner shall annually prepare and submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report describing the types of services and activities being undertaken by programs funded under this section, the total number of individuals served under this section, the types of disabilities represented by such individuals, and the types of issues being addressed on behalf of such individuals.

“(m) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1993, 1994, 1995, 1996, and 1997.”.

(b) **TECHNICAL AMENDMENT.**—The table of contents relating to the Act is amended by inserting after the item relating to section 508 the following item:

“Sec. 509. Protection and advocacy of individual rights.”.

## **TITLE VI—EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES**

### **Subtitle A—Community Service Employment Pilot Program for Individuals With Disabilities**

#### **SEC. 601. PILOT PROGRAM.**

(a) **DEFINITION.**—Section 611(a) (29 U.S.C. 795(a)) is amended by striking “section 7(8)” and inserting “section 7(8)(A)”.

(b) **PERSONAL ASSISTANCE SERVICES.**—Section 611(b)(1)(K) (29 U.S.C. 795(b)(1)(K)) is amended by striking “attendant care” and inserting “personal assistance services”.

#### **SEC. 602. TREATMENT OF PERSONAL ASSISTANCE SERVICES COSTS.**

Section 613(c) (29 U.S.C. 795b(c)) is amended by striking “attendant care” and inserting “personal assistance services”.

#### **SEC. 603. DEFINITIONS.**

Section 616 (29 U.S.C. 795e) is amended—

- (1) by adding “and” at the end of paragraph (1);
- (2) by striking “; and” at the end of paragraph (2) and inserting a period; and
- (3) by striking paragraph (3).

#### **SEC. 604. AUTHORIZATION OF APPROPRIATIONS.**

Section 617 (29 U.S.C. 795f) is amended by striking “1987” and all that follows and inserting “1993 through 1997.”.

### **Subtitle B—Projects With Industry**

#### **SEC. 611. PROJECTS WITH INDUSTRY.**

(a) **IN GENERAL.**—Section 621(a) (29 U.S.C. 795g(a)) is amended to read as follows:

“(a)(1) The purpose of this part is to create and expand job and career opportunities for individuals with disabilities in the competitive labor market by engaging the talent and leadership of private industry as partners in the rehabilitation process, to identify competitive job and career opportunities and the skills needed to perform such jobs, to create practical job and career readiness and training programs, and to provide job placements and career advancement.

"(2) The Commissioner, in consultation with the Secretaries of Labor and Commerce and with designated State units, may award grants to individual employers, community rehabilitation program providers, labor unions, trade associations, Indian tribes, tribal organizations, designated State units, and other entities to establish jointly financed Projects With Industry to create and expand job and career opportunities for individuals with disabilities, which projects shall—

"(A) provide for the establishment of business advisory councils, which shall—

"(i) be comprised of—

"(I) representatives of private industry, business concerns, and organized labor; and

"(II) individuals with disabilities and their representatives;

"(ii) identify job and career availability within the community;

"(iii) identify the skills necessary to perform the jobs and careers identified; and

"(iv) prescribe training programs designed to develop appropriate job and career skills for individuals with disabilities;

"(B) provide individuals with disabilities with training in realistic work settings in order to prepare the individuals for employment and career advancement in the competitive market;

"(C) provide job placement and career advancement services;

"(D) to the extent appropriate, provide for—

"(i) the development and modification of jobs and careers to accommodate the special needs of such individuals;

"(ii) the distribution of rehabilitation technology to such individuals; and

"(iii) the modification of any facilities or equipment of the employer that are used primarily by individuals with disabilities; and

"(E) provide individuals with disabilities with such support services as may be required in order to maintain the employment and career advancement for which the individuals have received training under this part.

"(3) An individual shall be eligible for services described in paragraph (2) if the appropriate designated State unit determines the individual to be an individual with a disability under section 7(8)(A) or an individual with a severe disability under section 7(15)(A). In making such a determination, the unit shall rely on the determination made by the recipient of the grant under which the services are provided, to the extent appropriate and available and consistent with the requirements under this Act. If a designated State unit does not notify a recipient of a grant within 60 days that the determination of the recipient is inappropriate, the recipient of the grant may consider the individual to be eligible.

"(4) The Commissioner shall enter into an agreement with the grant recipient regarding the establishment of the project. Any agreement shall be jointly developed by the Commissioner, the grant recipient, and, to the extent practicable, the appropriate designated State unit and the individuals with disabilities (or their

Contracts.  
Grants.



representatives) involved. Such agreements shall specify the terms of training and employment under the project, provide for the payment by the Commissioner of part of the costs of the project (in accordance with subsection (c)), and contain the items required under subsection (b) and such other provisions as the parties to the agreement consider to be appropriate.

"(5) Any agreement shall include a description of a plan to annually conduct a review and evaluation of the operation of the project in accordance with standards developed by the Commissioner under subsection (d), and, in conducting the review and evaluation, to collect information on—

"(A) the numbers and types of individuals with disabilities served;

"(B) the types of services provided;

"(C) the sources of funding;

"(D) the percentage of resources committed to each type of service provided;

"(E) the extent to which the employment status and earning power of individuals with disabilities changed following services;

"(F) the extent of capacity building activities, including collaboration with business and industry and other organizations, agencies, and institutions;

"(G) a comparison, if appropriate, of activities in prior years with activities in the most recent year; and

"(H) the number of project participants who were terminated from project placements and the duration of such placements.

"(6) The Commissioner may include, as part of agreements with grant recipients, authority for such grant recipients to provide technical assistance to—

"(A) assist employers in hiring individuals with disabilities;

or

"(B) improve or develop relationships between—

"(i) grant recipients or prospective grant recipients;

and

"(ii) employers or organized labor; or

"(C) assist employers in understanding and meeting the requirements of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) as the Act relates to employment of individuals with disabilities."

(b) AGREEMENT.—Section 621(b) (29 U.S.C. 795g(b)) is amended to read as follows:

"(b) No payment shall be made by the Commissioner under any agreement with a grant recipient entered into under subsection (a) unless such agreement—

"(1) provides an assurance that individuals with disabilities placed under such agreement shall receive at least the applicable minimum wage;

"(2) provides an assurance that any individual with a disability placed under this part shall be afforded terms and benefits of employment equal to terms and benefits that are afforded to the similarly situated co-workers of the individual, and that such individuals with disabilities shall not be segregated from their co-workers; and

"(3) provides an assurance that an annual evaluation report containing information specified under subsection (a)(5) shall

be submitted as determined to be appropriate by the Commissioner.”.

(c) EVALUATION.—Section 621(d) (29 U.S.C. 795g(d)) is amended—

(1) by striking paragraphs (1) through (3) and inserting the following:

“(1) The Commissioner shall develop standards for the evaluation described in subsection (a)(5) and shall review and revise the evaluation standards as necessary, subject to paragraphs (2) and (3).

“(2) In revising the standards for evaluation to be used by the grant recipients, the Commissioner shall obtain and consider recommendations for such standards from State vocational rehabilitation agencies, current and former grant recipients, professional organizations representing business and industry, organizations representing individuals with disabilities, individuals served by grant recipients, organizations representing community rehabilitation program providers, and labor organizations.”; and

(2) by redesignating paragraph (4) as paragraph (3).

(d) ADMINISTRATION.—Subsections (e) through (h) of section 621 (29 U.S.C. 795g) are amended to read as follows:

“(e)(1)(A) A grant may be awarded under this section for a period of up to 5 years and such grant may be renewed.

“(B) Grants under this section shall be awarded on a competitive basis. To be eligible to receive such a grant, a prospective grant recipient shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

“(2) The Commissioner shall to the extent practicable ensure an equitable distribution of payments made under this section among the States. To the extent funds are available, the Commissioner shall award grants under this section to new projects that will serve individuals with disabilities in States, portions of States, Indian tribes, or tribal organizations, that are currently unserved or underserved by projects.

“(f)(1) The Commissioner shall, as necessary, develop and publish in the Federal Register in final form indicators of what constitutes minimum compliance consistent with the evaluation standards under subsection (d)(1).

“(2) Each grant recipient shall report to the Commissioner at the end of each project year the extent to which the grant recipient is in compliance with the evaluation standards.

“(3)(A) The Commissioner shall annually conduct on-site compliance reviews of at least 15 percent of grant recipients. The Commissioner shall select grant recipients for review on a random basis.

“(B) The Commissioner shall use the indicators in determining compliance with the evaluation standards.

“(C) The Commissioner shall ensure that at least one member of a team conducting such a review shall be an individual who—

“(i) is not an employee of the Federal Government; and

“(ii) has experience or expertise in conducting projects.

“(D) The Commissioner shall ensure that—

“(i) a representative of the appropriate designated State unit shall participate in the review; and

“(ii) no person shall participate in the review of a grant recipient if—

Grants.

Federal  
Register,  
publication.

Reports.

"(I) the grant recipient provides any direct financial benefit to the reviewer; or

"(II) participation in the review would give the appearance of a conflict of interest.

"(4) In making a determination concerning any subsequent grant under this section, the Commissioner shall consider the past performance of the applicant, if applicable. The Commissioner shall use compliance indicators developed under this subsection that are consistent with program evaluation standards developed under subsection (d) to assess minimum project performance for purposes of making continuation awards in the third, fourth, and fifth years.

"(5) Each fiscal year the Commissioner shall include in the annual report to Congress required by section 13 an analysis of the extent to which grant recipients have complied with the evaluation standards. The Commissioner may identify individual grant recipients in the analysis. In addition, the Commissioner shall report the results of on-site compliance reviews, identifying individual grant recipients.

Reports.

"(g) The Commissioner may provide, directly or by way of grant, contract, or cooperative agreement, technical assistance to—

"(1) entities conducting projects for the purpose of assisting such entities in—

"(A) the improvement of or the development of relationships with private industry or labor; or

"(B) the improvement of relationships with State vocational rehabilitation agencies; and

"(2) entities planning the development of new projects.

"(h) As used in this section:

"(1) The term 'agreement' means an agreement described in subsection (a)(4).

"(2) The term 'project' means a Project With Industry established under subsection (a)(2).

"(3) The term 'grant recipient' means a recipient of a grant under subsection (a)(2)."

(e) TECHNICAL AMENDMENT.—Section 621 (29 U.S.C. 795g) is amended by striking subsection (i).

#### SEC. 612. BUSINESS OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES.

(a) IN GENERAL.—Title VI (29 U.S.C. 795 et seq.) is amended—

(1) in the heading for part B, by striking "AND BUSINESS OPPORTUNITIES FOR INDIVIDUALS WITH HANDICAPS";

(2) by redesignating section 622 as section 641;

(3) by inserting section 641 (as so redesignated) after section 638; and

(4) by inserting before such section 641 the following:

#### "PART D—BUSINESS OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 641 (as so redesignated by subsection (a)(2) of this section) is amended—

(1) by inserting "(a)" before "The Commissioner"; and

(2) by adding at the end the following:

"(b) There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the 1993 through 1997 fiscal years."

29 USC 795h,  
795r.

29 USC 795r.

Appropriation  
authorization.

(c) **TECHNICAL AMENDMENT.**—The Act (29 U.S.C. 701 et seq.) is amended in the table of contents in the first section—

(1) by striking the item relating to the part heading for part B of title VI and inserting the following:

“PART B—PROJECTS WITH INDUSTRY”;

(2) by striking the item relating to section 622; and

(3) by inserting after the item relating to section 638 the following:

“PART D—BUSINESS OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES

“Sec. 641. Business opportunities for individuals with disabilities.”.

#### **SEC. 613. AUTHORIZATION OF APPROPRIATIONS.**

(a) **AUTHORIZATION.**—Title VI (29 U.S.C. 795 et seq.) is amended—

(1) by redesignating section 623 as section 622; and

29 USC 795i.

(2) in section 622 (29 U.S.C. 795i) (as so redesignated by paragraph (1) of this subsection) by striking “section 621, \$16,070,000” and all that follows and inserting “this part, such sums as may be necessary for each of fiscal years 1993 through 1997.”.

(b) **TABLE OF CONTENTS.**—The table of contents relating to title VI is amended by inserting after the item relating to section 621 the following:

“Sec. 622. Authorization of appropriations.”.

### **Subtitle C—Supported Employment Services for Individuals With Severe Disabilities**

#### **SEC. 621. SUPPORTED EMPLOYMENT.**

(a) **PROGRAM.**—Title VI is amended by striking part C (29 U.S.C. 795j et seq.) and inserting the following:

“PART C—SUPPORTED EMPLOYMENT SERVICES FOR INDIVIDUALS  
WITH SEVERE DISABILITIES

#### **“SEC. 631. PURPOSE.**

29 USC 795j.

“It is the purpose of this part to authorize allotments, in addition to grants for vocational rehabilitation services under title I, to assist States in developing collaborative programs with appropriate entities to provide supported employment services for individuals with the most severe disabilities who require supported employment services to enter or retain competitive employment.

#### **“SEC. 632. ALLOTMENTS.**

29 USC 795k.

“(a) **IN GENERAL.**—

“(1) **STATES.**—The Secretary shall allot the sums appropriated for each fiscal year to carry out this part among the States on the basis of relative population of each State, except that—

“(A) no State shall receive less than \$250,000, or one-third of one percent of the sums appropriated for the fiscal year for which the allotment is made, whichever is greater; and

"(B) if the sums appropriated to carry out this part for the fiscal year exceed by \$1,000,000 or more the sums appropriated to carry out this part in fiscal year 1992, no State shall receive less than \$300,000, or one-third of one percent of the sums appropriated for the fiscal year for which the allotment is made, whichever is greater.

**"(2) CERTAIN TERRITORIES.—**

**"(A) IN GENERAL.—**For the purposes of this subsection, Guam, American Samoa, the United States Virgin Islands, the Republic of Palau, and the Commonwealth of the Northern Mariana Islands shall not be considered to be States.

**"(B) ALLOTMENT.—**Each jurisdiction described in subparagraph (A) shall be allotted not less than one-eighth of one percent of the amounts appropriated for the fiscal year for which the allotment is made, except that the Republic of Palau may receive such allotment under this section only until the Compact of Free Association with Palau takes effect.

**"(b) REALLOTMENT.—**Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be expended by such State for carrying out the provisions of this part, the Commissioner shall make such amount available for carrying out the provisions of this part to one or more of the States that the Commissioner determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the State (as determined under the preceding provisions of this section) for such year.

29 USC 795l.

**"SEC. 633. AVAILABILITY OF SERVICES.**

"Funds provided under this part may be used to provide supported employment services to individuals who are eligible under this part. Funds provided under this part, title I, or subsection (c) or (f) of section 311 may not be used to provide extended services to individuals who are eligible under this part or title I.

29 USC 795m.

**"SEC. 634. ELIGIBILITY.**

"An individual shall be eligible under this part to receive supported employment services authorized under this Act if—

"(1) the individual is eligible for vocational rehabilitation services;

"(2) the individual is determined to be an individual with the most severe disabilities; and

"(3) a comprehensive assessment of rehabilitation needs of the individual provided under section 102(b)(1)(A), including an evaluation of rehabilitation, career, and job needs, identifies supported employment as the appropriate rehabilitation objective for the individual.

29 USC 795n.

**"SEC. 635. STATE PLAN.**

**"(a) STATE PLAN SUPPLEMENTS.—**To be eligible for an allotment under this part, a State shall submit to the Commissioner, as part of the State plan under section 101, a State plan supplement for providing supported employment services authorized under this Act to individuals who are eligible under this Act to receive the

services. Each State shall make such annual revisions in the plan supplement as may be necessary.

"(b) CONTENTS.—Each such plan supplement shall—

"(1) designate each agency that the State designated under section 101(a)(1) as the agency to administer the program assisted under this part;

"(2) summarize the results of the comprehensive, statewide assessment conducted under section 101(a)(5), with respect to the rehabilitation and career needs of individuals with severe disabilities and the need for supported employment services, including needs related to coordination and use of information within the State relating to section 618(b)(1)(C) of the Individuals with Disabilities Education Act (20 U.S.C. 1418(b)(1)(C));

"(3) describe the quality, scope, and extent of supported employment services authorized under this Act to be provided to individuals who are eligible under this Act to receive the services and specify the goals and plans of the State with respect to the distribution of funds received under section 632;

"(4) demonstrate evidence of the efforts of the designated State agency to identify and make arrangements (including entering into cooperative agreements) with other State agencies and other appropriate entities to assist in the provision of supported employment services;

"(5) demonstrate evidence of the efforts of the designated State agency to identify and make arrangements (including entering into cooperative agreements) with other public or non-profit agencies or organizations within the State, employers, natural supports, and other entities with respect to the provision of extended services;

"(6) provide assurances that—

"(A) funds made available under this part will only be used to provide supported employment services authorized under this Act to individuals who are eligible under this part to receive the services;

"(B) that the comprehensive assessments of individuals with severe disabilities conducted under section 102(b)(1)(A) and funded under title I will include consideration of supported employment as an appropriate rehabilitation objective;

"(C) an individualized written rehabilitation program, as required by section 102, will be developed and updated using funds under title I in order to—

"(i) specify the supported employment services to be provided;

"(ii) specify the expected extended services needed; and

"(iii) identify the source of extended services, which may include natural supports, or to the extent that it is not possible to identify the source of extended services at the time the individualized written rehabilitation program is developed, a statement describing the basis for concluding that there is a reasonable expectation that such sources will become available;

"(D) the State will use funds provided under this part only to supplement, and not supplant, the funds provided under title I, in providing supported employment services

specified in the individualized written rehabilitation program;

"(E) services provided under an individualized written rehabilitation program will be coordinated with services provided under other individualized plans established under other Federal or State programs;

"(F) to the extent jobs skills training is provided, the training will be provided on-site; and

"(G) supported employment services will include placement in an integrated setting for the maximum number of hours possible based on the unique strengths, resources, interests, concerns, abilities, and capabilities of individuals with the most severe disabilities;

"(7) provide assurances that the State agencies designated under paragraph (1) will expend not more than 5 percent of the allotment of the State under this part for administrative costs of carrying out this part; and

"(8) contain such other information and be submitted in such manner as the Commissioner may require.

29 USC 795o.

**"SEC. 636. RESTRICTION.**

"Each State agency designated under section 635(b)(1) shall collect the client information required by section 13 separately for supported employment clients under this part and for supported employment clients under title I.

29 USC 795p.

**"SEC. 637. SAVINGS PROVISION.**

"(a) SUPPORTED EMPLOYMENT SERVICES.—Nothing in this Act shall be construed to prohibit a State from providing supported employment services in accordance with the State plan submitted under section 101 by using funds made available through a State allotment under section 110.

"(b) POSTEMPLOYMENT SERVICES.—Nothing in this part shall be construed to prohibit a State from providing discrete postemployment services in accordance with the State plan submitted under section 101 by using funds made available through a State allotment under section 110 to an individual who is eligible under this part.

29 USC 795q.

**"SEC. 638. AUTHORIZATION OF APPROPRIATIONS.**

"There are authorized to be appropriated to carry out this part such sums as may be necessary for each of fiscal years 1993 through 1997."

(b) TABLE OF CONTENTS.—The table of contents relating to title VI is amended by striking the items relating to part C and inserting the following:

**"PART C—SUPPORTED EMPLOYMENT SERVICES FOR INDIVIDUALS WITH SEVERE DISABILITIES**

"Sec. 631. Purpose.

"Sec. 632. Allotments.

"Sec. 633. Availability of services.

"Sec. 634. Eligibility.

"Sec. 635. State plan.

"Sec. 636. Restriction.

"Sec. 637. Savings provision.

"Sec. 638. Authorization of appropriations."

# **TITLE VII—INDEPENDENT LIVING SERVICES AND CENTERS FOR INDE- PENDENT LIVING**

## **SEC. 701. SERVICES AND CENTERS.**

The Act is amended—

- (1) by striking title VII (29 U.S.C. 796 et seq.); and
- (2) by adding at the end the following new title:

# **“TITLE VII—INDEPENDENT LIVING SERVICES AND CENTERS FOR INDE- PENDENT LIVING**

## **“CHAPTER 1—INDIVIDUALS WITH SEVERE DISABILITIES**

### **“PART A—GENERAL PROVISIONS**

#### **“SEC. 701. PURPOSE.**

29 USC 796.

“The purpose of this chapter is to promote a philosophy of independent living, including a philosophy of consumer control, peer support, self-help, self-determination, equal access, and individual and system advocacy, in order to maximize the leadership, empowerment, independence, and productivity of individuals with disabilities, and the integration and full inclusion of individuals with disabilities into the mainstream of American society, by—

“(1) providing financial assistance to States for providing, expanding, and improving the provision of independent living services;

“(2) providing financial assistance to develop and support statewide networks of centers for independent living; and

“(3) providing financial assistance to States for improving working relationships among State independent living rehabilitation service programs, centers for independent living, Statewide Independent Living Councils established under section 705, State vocational rehabilitation programs receiving assistance under title I, State programs of supported employment services receiving assistance under part C of title VI, client assistance programs receiving assistance under section 112, programs funded under other titles of this Act, programs funded under other Federal programs, and programs funded through non-Federal sources.

#### **“SEC. 702. DEFINITIONS.**

29 USC 796a.

“As used in this chapter:

“(1) **CENTER FOR INDEPENDENT LIVING.**—The term ‘center for independent living’ means a consumer-controlled, community-based, cross-disability, nonresidential private nonprofit agency that—

“(A) is designed and operated within a local community by individuals with disabilities; and

“(B) provides an array of independent living services.



"(2) CONSUMER CONTROL.—The term 'consumer control' means, with respect to an entity, that the entity vests power and authority in individuals with disabilities.

29 USC 796b.

**"SEC. 703. ELIGIBILITY FOR RECEIPT OF SERVICES.**

"Services may be provided under this chapter to any individual with a severe disability, as defined in section 7(15)(B).

29 USC 796c.

**"SEC. 704. STATE PLAN.****"(a) IN GENERAL.—**

"(1) REQUIREMENT.—To be eligible to receive financial assistance under this chapter, a State shall submit to the Commissioner, and obtain approval of, a State plan containing such provisions as the Commissioner may require, including, at a minimum, the provisions required in this section.

"(2) JOINT DEVELOPMENT.—The plan under paragraph (1) shall be jointly developed and signed by—

"(A) the director of the designated State unit; and

"(B) the chairperson of the Statewide Independent Living Council, acting on behalf of and at the direction of the Council.

"(3) PERIODIC REVIEW AND REVISION.—The plan shall provide for the review and revision of the plan, not less than once every 3 years, to ensure the existence of appropriate planning, financial support and coordination, and other assistance to appropriately address, on a statewide and comprehensive basis, needs in the State for—

"(A) the provision of State independent living services;

"(B) the development and support of a statewide network of centers for independent living; and

"(C) working relationships between—

"(i) programs providing independent living services and independent living centers; and

"(ii) the vocational rehabilitation program established under title I, and other programs providing services for individuals with disabilities.

"(4) DATE OF SUBMISSION.—The State shall submit the plan to the Commissioner 90 days before the completion date of the preceding plan. If a State fails to submit such a plan that complies with the requirements of this section, the Commissioner may withhold financial assistance under this chapter until such time as the State submits such a plan.

"(b) STATEWIDE INDEPENDENT LIVING COUNCIL.—The plan shall provide for the establishment of a Statewide Independent Living Council in accordance with section 705.

"(c) DESIGNATION OF STATE UNIT.—The plan shall designate the designated State unit of such State as the agency that, on behalf of the State, shall—

"(1) receive, account for, and disburse funds received by the State under this chapter based on the plan;

"(2) provide administrative support services for programs under parts B and C;

"(3) keep such records and afford such access to such records as the Commissioner finds to be necessary with respect to the programs; and

"(4) submit such additional information or provide such assurances as the Commissioner may require with respect to the programs.

Records.

**“(d) OBJECTIVES.—The plan shall—**

**“(1) specify the objectives to be achieved under the plan and establish timelines for the achievement of the objectives; and**

**“(2) explain how such objectives are consistent with and further the purpose of this chapter.**

**“(e) INDEPENDENT LIVING SERVICES.—The plan shall provide that the State will provide independent living services under this chapter to individuals with severe disabilities, and will provide the services to such an individual in accordance with an independent living plan mutually agreed upon by an appropriate staff member of the service provider and the individual, unless the individual signs a waiver stating that such a plan is unnecessary.**

**“(f) SCOPE AND ARRANGEMENTS.—The plan shall describe the extent and scope of independent living services to be provided under this chapter to meet such objectives. If the State makes arrangements, by grant or contract, for providing such services, such arrangements shall be described in the plan.**

**“(g) NETWORK.—The plan shall set forth a design for the establishment of a statewide network of centers for independent living that comply with the standards and assurances set forth in section 725.**

**“(h) CENTERS.—In States in which State funding for centers for independent living equals or exceeds the amount of funds allotted to the State under part C, as provided in section 723, the plan shall include policies, practices, and procedures governing the awarding of grants to centers for independent living and oversight of such centers consistent with section 723.**

**“(i) COOPERATION, COORDINATION, AND WORKING RELATIONSHIPS AMONG VARIOUS ENTITIES.—The plan shall set forth the steps that will be taken to maximize the cooperation, coordination, and working relationships among—**

**“(1) the independent living rehabilitation service program, the Statewide Independent Living Council, and centers for independent living; and**

**“(2) the designated State unit, other State agencies represented on such Council, other councils that address the needs of specific disability populations and issues, and other public and private entities determined to be appropriate by the Council.**

**“(j) COORDINATION OF SERVICES.—The plan shall describe how services funded under this chapter will be coordinated with, and complement, other services, in order to avoid unnecessary duplication with other Federal, State, and local programs.**

**“(k) COORDINATION BETWEEN FEDERAL AND STATE SOURCES.—The plan shall describe efforts to coordinate Federal and State funding for centers for independent living and independent living services.**

**“(l) OUTREACH.—With respect to services and centers funded under this chapter, the plan shall set forth steps to be taken regarding outreach to populations that are unserved or underserved by programs under this title, including minority groups and urban and rural populations.**

**“(m) REQUIREMENTS.—The plan shall provide satisfactory assurances that all recipients of financial assistance under this chapter will—**

"(1) notify all individuals seeking or receiving services under this chapter about the availability of the client assistance program under section 112, the purposes of the services provided under such program, and how to contact such program;

"(2) take affirmative action to employ and advance in employment qualified individuals with disabilities on the same terms and conditions required with respect to the employment of such individuals under the provisions of section 503;

"(3) adopt such fiscal control and fund accounting procedures as may be necessary to ensure the proper disbursement of and accounting for funds paid to the State under this chapter;

Records.

"(4)(A) maintain records that fully disclose—

"(i) the amount and disposition by such recipient of the proceeds of such financial assistance;

"(ii) the total cost of the project or undertaking in connection with which such financial assistance is given or used; and

"(iii) the amount of that portion of the cost of the project or undertaking supplied by other sources;

Records.

"(B) maintain such other records as the Commissioner determines to be appropriate to facilitate an effective audit;

"(C) afford such access to records maintained under subparagraphs (A) and (B) as the Commissioner determines to be appropriate; and

Reports.

"(D) submit such reports with respect to such records as the Commissioner determines to be appropriate;

"(5) provide access to the Commissioner and the Comptroller General or any of their duly authorized representatives, for the purpose of conducting audits and examinations, of any books, documents, papers, and records of the recipients that are pertinent to the financial assistance received under this chapter; and

"(6) provide for public hearings regarding the contents of the plan during both the formulation and review of the plan.

"(n) EVALUATION.—The plan shall establish a method for the periodic evaluation of the effectiveness of the plan in meeting the objectives established in subsection (d), including evaluation of satisfaction by individuals with disabilities.

29 USC 796d.

#### "SEC. 705. STATEWIDE INDEPENDENT LIVING COUNCIL.

"(a) ESTABLISHMENT.—To be eligible to receive financial assistance under this chapter, each State shall establish a Statewide Independent Living Council (referred to in this section as the 'Council'). The Council shall not be established as an entity within another State agency.

"(b) COMPOSITION AND APPOINTMENT.—

"(1) APPOINTMENT.—Members of the Council shall be appointed by the Governor or the appropriate entity within the State responsible for making appointments, within 90 days after the date of enactment of the Rehabilitation Act Amendments of 1992. The appointing authority shall select members after soliciting recommendations from representatives of organizations representing a broad range of individuals with disabilities and organizations interested in individuals with disabilities.

"(2) COMPOSITION.—The Council shall include—

"(A) at least one director of a center for independent living chosen by the directors of centers for independent living within the State; and

"(B) as ex officio, nonvoting members—

"(i) a representative from the designated State unit; and

"(ii) representatives from other State agencies that provide services for individuals with disabilities.

"(3) ADDITIONAL MEMBERS.—The Council may include—

"(A) other representatives from centers for independent living;

"(B) parents and guardians of individuals with disabilities;

"(C) advocates of and for individuals with disabilities;

"(D) representatives from private businesses;

"(E) representatives from organizations that provide services for individuals with disabilities; and

"(F) other appropriate individuals.

"(4) QUALIFICATIONS.—The Council shall be composed of members—

"(A) who provide statewide representation;

"(B) who represent a broad range of individuals with disabilities;

"(C) who are knowledgeable about centers for independent living and independent living services; and

"(D) a majority of whom are persons who are—

"(i) individuals with disabilities described in section 7(8)(B); and

"(ii) not employed by any State agency or center for independent living.

"(5) CHAIRPERSON.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Council shall select a chairperson from among the membership of the Council.

"(B) DESIGNATION BY GOVERNOR.—In States in which the Governor does not have veto power pursuant to State law, the Governor shall designate a member of the Council to serve as the chairperson of the Council or shall require the Council to so designate such a member.

"(6) TERMS OF APPOINTMENT.—

"(A) LENGTH OF TERM.—Each member of the Council shall serve for a term of 3 years, except that—

"(i) a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term; and

"(ii) the terms of service of the members initially appointed shall be (as specified by the appointing authority) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

"(B) NUMBER OF TERMS.—No member of the Council may serve more than two consecutive full terms.

"(7) VACANCIES.—Any vacancy occurring in the membership of the Council shall be filled in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members to execute the duties of the Council.

"(c) DUTIES.—The Council shall—

"(1) jointly develop and submit (in conjunction with the designated State agency) the State plan required in section 704;

"(2) monitor, review, and evaluate the implementation of the State plan;

"(3) coordinate activities with the State Rehabilitation Advisory Council established under section 105 and councils that address the needs of specific disability populations and issues under other Federal law;

"(4) ensure that all regularly scheduled meetings of the Council are open to the public and sufficient advance notice is provided; and

"(5) submit to the Commissioner such periodic reports as the Commissioner may reasonably request, and keep such records, and afford such access to such records, as the Commissioner finds necessary to verify such reports.

Reports.  
Records.

"(d) HEARINGS AND FORUMS.—The Council is authorized to hold such hearings and forums as the Council may determine to be necessary to carry out the duties of the Council.

"(e) PLAN.—

"(1) IN GENERAL.—The Council shall prepare, in conjunction with the designated State unit, a plan for the provision of such resources, including such staff and personnel, as may be necessary to carry out the functions of the Council under this section, with funds made available under this chapter and part C of title I and from other public and private sources. The resource plan shall, to the maximum extent possible, rely on the use of resources in existence during the period of implementation of the plan.

"(2) SUPERVISION AND EVALUATION.—Each Council shall, consistent with State law, supervise and evaluate such staff and other personnel as may be necessary to carry out the functions of the Council under this section.

"(3) CONFLICT OF INTEREST.—While assisting the Council in carrying out its duties, staff and other personnel shall not be assigned duties by the designated State agency or any other agency or office of the State, that would create a conflict of interest.

"(f) COMPENSATION AND EXPENSES.—The Council may use such resources to reimburse members of the Council for reasonable and necessary expenses of attending Council meetings and performing Council duties (including child care and personal assistance services), and to pay compensation to a member of the Council, if such member is not employed or must forfeit wages from other employment, for each day the member is engaged in performing Council duties.

"(g) USE OF EXISTING COUNCILS.—To the extent that a State has established a Council before September 30, 1992, that is comparable to the Council described in this section, such Council shall be considered to be in compliance with this section. Within 1 year after the date of enactment of the Rehabilitation Act Amendments of 1992, such State shall establish a Council that complies in full with this section.

29 USC 796d-1.

**"SEC. 706. RESPONSIBILITIES OF THE COMMISSIONER.**

**"(a) APPROVAL OF STATE PLANS.—**

"(1) IN GENERAL.—The Commissioner shall approve any State plan submitted under section 704 that the Commissioner determines meets the requirements of section 704, and shall disapprove any such plan that does not meet such requirements, as soon as practicable after receiving the plan. Prior to such disapproval, the Commissioner shall notify the State of the intention to disapprove the plan, and shall afford such State reasonable notice and opportunity for a hearing.

"(2) PROCEDURES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the provisions of subsections (c) and (d) of section 107 shall apply to any State plan submitted to the Commissioner under section 704.

"(B) APPLICATION.—For purposes of the application described in subparagraph (A), all references in such provisions—

"(i) to the Secretary shall be deemed to be references to the Commissioner; and

"(ii) to section 101 shall be deemed to be references to section 704.

"(b) INDICATORS.—Not later than October 1, 1993, the Commissioner shall develop and publish in the Federal Register indicators of minimum compliance consistent with the standards set forth in section 725.

Federal  
Register,  
publication.

"(c) ON-SITE COMPLIANCE REVIEWS.—

"(1) REVIEWS.—The Commissioner shall annually conduct on-site compliance reviews of at least 15 percent of the centers for independent living that receive funds under part C and shall periodically conduct such a review of each such center. The Commissioner shall select such centers for review on a random basis.

"(2) QUALIFICATIONS OF EMPLOYEES CONDUCTING REVIEWS.—The Commissioner shall—

"(A) to the maximum extent practicable, carry out such a review by using employees of the Department who are knowledgeable about the provision of independent living services;

"(B) ensure that the employee of the Department with responsibility for supervising such a review shall have such knowledge; and

"(C) ensure that at least one member of a team conducting such a review shall be an individual who—

"(i) is not a government employee; and

"(ii) has experience in the operation of centers for independent living.

"(d) REPORTS.—The Commissioner shall include, in the annual report required under section 13, information on the extent to which centers for independent living receiving funds under part C have complied with the standards and assurances set forth in section 725. The Commissioner may identify individual centers for independent living in the analysis. The Commissioner shall report the results of on-site compliance reviews, identifying individual centers for independent living and other recipients of assistance under this chapter.

Reports.

**"PART B—INDEPENDENT LIVING SERVICES**

29 USC 796e.

**"SEC. 711. ALLOTMENTS.****"(a) IN GENERAL.—****"(1) STATES.—**

**"(A) POPULATION BASIS.—**Except as provided in subparagraphs (B) and (C), from sums appropriated for each fiscal year to carry out this part, the Commissioner shall make an allotment to each State whose State plan has been approved under section 706 of an amount bearing the same ratio to such sums as the population of the State bears to the population of all States.

**"(B) MAINTENANCE OF 1992 AMOUNTS.—**Subject to the availability of appropriations to carry out this part, the amount of any allotment made under subparagraph (A) to a State for a fiscal year shall not be less than the amount of an allotment made to the State for fiscal year 1992 under part A of this title, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992.

**"(C) MINIMUMS.—**Subject to the availability of appropriations to carry out this part, and except as provided in subparagraph (B), the allotment to any State under subparagraph (A) shall be not less than \$275,000 or one-third of one percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year that is less than \$275,000 or one-third of one percent of such sums shall be increased to the greater of the two amounts.

**"(2) CERTAIN TERRITORIES.—**

**"(A) IN GENERAL.—**For the purposes of this subsection, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau shall not be considered to be States.

**"(B) ALLOTMENT.—**Each jurisdiction described in subparagraph (A) shall be allotted not less than one-eighth of one percent of the amounts made available for purposes of this part for the fiscal year for which the allotment is made, except that the Republic of Palau may receive such allotment under this section only until the Compact of Free Association with Palau takes effect.

**"(3) ADJUSTMENT FOR INFLATION.—**For purposes of determining the minimum amount of an allotment under paragraph (1)(C), the amount \$275,000 shall, in the case of such allotments for fiscal year 1994 and subsequent fiscal years, be increased to the extent necessary to offset the effects of inflation occurring since October 1992, as measured by the percentage increase in the Consumer Price Index For All Urban Consumers (U.S. city average) during the period ending on April 1 of the fiscal year preceding the fiscal year for which the allotment is to be made.

**"(b) PROPORTIONAL REDUCTION.—**Subject to subsection (a)(1)(B), amounts necessary to provide allotments to States in accordance with subsection (a)(1)(B), or in accordance with subsection (a)(1)(C) as increased under subsection (a)(3), or to provide allotments under subsection (a)(2)(B), shall be derived by proportionately reducing

the allotments of the remaining States under subsection (a)(1), but with such adjustments as may be necessary to prevent the allotment of any such remaining States from being thereby reduced to less than the greater of \$275,000 or one-third of one percent of the sums made available for purposes of this part for the fiscal year for which the allotment is made, as increased in accordance with subsection (a)(3).

“(c) REALLOTMENT.—Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be expended by such State in carrying out the provisions of this part, the Commissioner shall make such amount available for carrying out the provisions of this part to one or more of the States that the Commissioner determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the State (as determined under the preceding provisions of this section) for such year.

**“SEC. 712. PAYMENTS TO STATES FROM ALLOTMENTS.**

29 USC 796e-1.

“(a) PAYMENTS.—From the allotment of each State for a fiscal year under section 711, the State shall be paid the Federal share of the expenditures incurred during such year under its State plan approved under section 706. Such payments may be made (after necessary adjustments on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments and on such conditions as the Commissioner may determine.

“(b) FEDERAL SHARE.—

“(1) IN GENERAL.—The Federal share with respect to any State for any fiscal year shall be 90 percent of the expenditures incurred by the State during such year under its State plan approved under section 706.

“(2) NON-FEDERAL SHARE.—The non-Federal share of the cost of any project that receives assistance through an allotment under this part may be provided in cash or in kind, fairly evaluated, including plant, equipment, or services.

“(3) DETERMINATION.—For the purpose of determining the Federal share with respect to any State, expenditures by a political subdivision of such State shall, subject to regulations prescribed by the Commissioner, be regarded as expenditures by such State.

Regulations.

**“SEC. 713. AUTHORIZED USES OF FUNDS.**

29 USC 796e-2.

“The State may use funds received under this part to provide the resources described in section 705(e), relating to the Statewide Independent Living Council, and may use funds received under this part—

“(1) to provide independent living services to individuals with severe disabilities;

“(2) to demonstrate ways to expand and improve independent living services;

“(3) to support the operation of centers for independent living;

“(4) to support activities to increase the capacities of public or nonprofit agencies and organizations and other entities to



develop comprehensive approaches or systems for providing independent living services;

"(5) to conduct studies and analyses, gather information, develop model policies and procedures, and present information, approaches, strategies, findings, conclusions, and recommendations to Federal, State, and local policymakers in order to enhance independent living services for individuals with disabilities;

"(6) to train individuals with disabilities and individuals providing services to individuals with disabilities and other persons regarding the independent living philosophy; and

"(7) to provide outreach to populations that are unserved or underserved by programs under this title, including minority groups and urban and rural populations.

29 USC 796e-3.

**"SEC. 714. AUTHORIZATION OF APPROPRIATIONS.**

"There are authorized to be appropriated to carry out this part such sums as may be necessary for each of the fiscal years 1993, 1994, 1995, 1996, and 1997.

**"PART C—CENTERS FOR INDEPENDENT LIVING**

29 USC 796f.

**"SEC. 721. PROGRAM AUTHORIZATION.**

"(a) IN GENERAL.—From the funds appropriated for fiscal year 1994 and for each subsequent fiscal year to carry out this part, the Commissioner shall allot such sums as may be necessary to States and other entities in accordance with subsections (b) through (d).

**"(b) TRAINING.—**

"(1) GRANTS; CONTRACTS; OTHER ARRANGEMENTS.—For any fiscal year in which the funds appropriated to carry out this part exceed the funds appropriated to carry out this part for fiscal year 1993, the Commissioner shall first reserve from such excess, to provide training and technical assistance for such fiscal year, not less than 1.8 percent, and not more than 2 percent, of such funds.

Grants.  
Contracts.

"(2) ALLOCATION.—From the funds reserved under paragraph (1), the Commissioner shall make grants to, and enter into contracts and other arrangements with, entities who have experience in the operation of centers for independent living to provide such training and technical assistance with respect to planning, developing, conducting, administering, and evaluating centers for independent living.

"(3) FUNDING PRIORITIES.—The Commissioner shall conduct a survey of Statewide Independent Living Councils and centers for independent living regarding training and technical assistance needs in order to determine funding priorities for such grants, contracts, and other arrangements.

"(4) REVIEW.—To be eligible to receive a grant or enter into a contract or other arrangement under this subsection, such an entity shall submit an application to the Commissioner at such time, in such manner, and containing a proposal to provide such training and technical assistance, and containing such additional information as the Commissioner may require. The Commissioner shall provide for peer review of grant applications by panels that include persons who are not govern-

ment employees and who have experience in the operation of centers for independent living.

"(5) PROHIBITION ON COMBINED FUNDS.—No funds reserved by the Commissioner under this subsection may be combined with funds appropriated under any other Act or part of this Act if the purpose of combining funds is to make a single discretionary grant or a single discretionary payment, unless such funds appropriated under this chapter are separately identified in such grant or payment and are used for the purposes of this chapter.

"(c) IN GENERAL.—

"(1) STATES.—

"(A) POPULATION BASIS.—Except as provided in subparagraphs (B) and (C) and after the reservation required by subsection (b) has been made, from the remainder of the amounts appropriated for each such fiscal year to carry out this part, the Commissioner shall make an allotment to each State whose State plan has been approved under section 706 of an amount bearing the same ratio to such remainder as the population of the State bears to the population of all States.

"(B) MAINTENANCE OF 1992 AMOUNTS.—Subject to the availability of appropriations to carry out this part, the amount of any allotment made under subparagraph (A) to a State for a fiscal year shall not be less than the amount of financial assistance received by centers for independent living in the State for fiscal year 1992 under part B of this title, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992.

"(C) MINIMUMS.—Subject to the availability of appropriations to carry out this part and except as provided in subparagraph (B), for a fiscal year in which the amounts appropriated to carry out this part exceed the amounts appropriated for fiscal year 1992 to carry out part B of this title, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992—

"(i) if such excess is not less than \$8,000,000, the allotment to any State under subparagraph (A) shall be not less than \$450,000 or one-third of one percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year that is less than \$450,000 or one-third of one percent of such sums shall be increased to the greater of the two amounts;

"(ii) if such excess is not less than \$4,000,000 and is less than \$8,000,000, the allotment to any State under subparagraph (A) shall be not less than \$400,000 or one-third of one percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year that is less than \$400,000 or one-third of one percent of such sums shall be increased to the greater of the two amounts; and

"(iii) if such excess is less than \$4,000,000, the allotment to any State under subparagraph (A) shall approach, as nearly as possible, the greater of the two amounts described in clause (ii).

"(2) CERTAIN TERRITORIES.—

"(A) IN GENERAL.—For the purposes of this subsection, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau shall not be considered to be States.

"(B) ALLOTMENT.—Each jurisdiction described in subparagraph (A) shall be allotted not less than one-eighth of one percent of the remainder for the fiscal year for which the allotment is made, except that the Republic of Palau may receive such allotment under this section only until the Compact of Free Association with Palau takes effect.

"(3) ADJUSTMENT FOR INFLATION.—For any fiscal year, beginning in fiscal year 1994, in which the total amount appropriated to carry out this part exceeds the total amount appropriated to carry out this part for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index For All Urban Consumers published by the Secretary of Labor under section 100(c)(1), the Commissioner shall increase the minimum allotment under paragraph (1)(C) by such percentage change in the Consumer Price Index For All Urban Consumers.

"(d) REALLOTMENT.—Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be expended by such State for carrying out the provisions of this part, the Commissioner shall make such amount available for carrying out the provisions of this part to one or more of the States that the Commissioner determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the State (as determined under the preceding provisions of this section) for such year.

"(e) TRANSITION RULES.—

"(1) RESERVATION.—

"(A) FISCAL YEAR 1993.—For fiscal year 1993, the Commissioner shall first reserve from the funds appropriated to carry out this part, not less than 1.8 percent, and not more than 2 percent, of such funds, whichever is greater, for training, technical assistance, and transition assistance, to centers for independent living.

"(B) TRAINING AND TECHNICAL ASSISTANCE.—From the funds reserved under subparagraph (A), the Commissioner shall make grants to, and enter into contracts and other arrangements with, entities who have experience in the operation of centers for independent living, to—

"(i) provide such training and technical assistance with respect to planning, developing, conducting, administering, and evaluating centers for independent living; and

Grants.  
Contracts.

"(ii) provide such transition assistance to assist the centers with efforts to achieve compliance with the standards and assurances set forth in this part.

"(C) REVIEW.—To be eligible to receive a grant or enter into a contract or other arrangement under this paragraph, such an entity shall submit an application to the Commissioner at such time, in such manner, and containing a proposal to provide such training, technical assistance, and transition assistance and containing such additional information as the Commissioner may require. The Commissioner shall provide for peer review of such proposals by panels that include persons who are not government employees and who have experience in the operation of centers for independent living.

"(D) PROHIBITION ON COMBINED FUNDS.—An entity that receives funds under this paragraph shall comply with subsection (b)(5) with respect to the funds.

"(2) IN GENERAL.—

"(A) GRANTS.—After the reservation required by paragraph (1) has been made, and from the remainder of the funds appropriated for fiscal year 1993 to carry out this part, the Secretary is authorized to make grants to eligible agencies described in subparagraph (B) to operate centers for independent living.

"(B) AGENCIES.—

"(i) FISCAL YEAR 1992 RECIPIENTS.—Private nonprofit agencies that received funding directly or through subgrants or contracts under part B, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992, in fiscal year 1992 shall receive assistance under this part for fiscal year 1993 if the agencies submit applications that demonstrate to the satisfaction of the Commissioner that as of October 1, 1993, such agencies will meet the standards described in section 725(b) and that contain the assurances described in section 725(c). In determining whether a center meets the standards described in section 725(b), the Commissioner will look for information that shows how the center will meet each standard. The Commissioner shall consider any data on past performance that is provided by the agency that shows how the center has been meeting the standards.

"(ii) OTHER AGENCIES.—Private nonprofit agencies that did not receive assistance under part B, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992, in fiscal year 1992 may receive assistance under this part for fiscal year 1993 if the agencies submit satisfactory applications for fiscal year 1993. In determining whether an application is satisfactory, the Secretary shall use the criteria for selection of centers specified in section 722(d)(2)(B).

"(C) PRIORITY.—The Secretary may not award funds to a private nonprofit agency that did not receive assistance under part B, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of

1992, in fiscal year 1992 until the Secretary has funded all agencies within each State that received such funding and have submitted applications described in subparagraph (B)(i) for fiscal year 1993.

29 USC 796f-1.

**"SEC. 722. GRANTS TO CENTERS FOR INDEPENDENT LIVING IN STATES IN WHICH FEDERAL FUNDING EXCEEDS STATE FUNDING.**

**"(a) ESTABLISHMENT.—**

**"(1) IN GENERAL.—**Unless the director of a designated State unit awards grants under section 723 to eligible agencies in a State for a fiscal year, the Commissioner shall award grants under this section to such eligible agencies for such fiscal year from the amount of funds allotted to the State under subsection (c) or (d) of section 721 for such year.

**"(2) GRANTS.—**The Commissioner shall award such grants, from the amount of funds so allotted, to such eligible agencies for the planning, conduct, administration, and evaluation of centers for independent living that comply with the standards and assurances set forth in section 725.

**"(b) ELIGIBLE AGENCIES.—**In any State in which the Commissioner has approved the State plan required by section 704, the Commissioner may make a grant under this section to any eligible agency that—

**"(1)** has the power and authority to carry out the purpose of this part and perform the functions set forth in section 725 within a community and to receive and administer funds under this part, funds and contributions from private or public sources that may be used in support of a center for independent living, and funds from other public and private programs;

**"(2)** is determined by the Commissioner to be able to plan, conduct, administer, and evaluate a center for independent living consistent with the standards and assurances set forth in section 725; and

**"(3)** submits an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

**"(c) EXISTING ELIGIBLE AGENCIES.—**In the administration of the provisions of this section, the Commissioner shall award grants to any eligible agency that is receiving funds under this part on September 30, 1993, unless the Commissioner makes a finding that the agency involved fails to meet program and fiscal standards and assurances set forth in section 725.

**"(d) NEW CENTERS FOR INDEPENDENT LIVING.—**

**"(1) IN GENERAL.—**If there is no center for independent living serving a region of the State or a region is underserved, and the increase in the allotment of the State is sufficient to support an additional center for independent living in the State, the Commissioner may award a grant under this section to the most qualified applicant, consistent with the provisions in the State plan setting forth the design of the State for establishing a statewide network of centers for independent living.

**"(2) SELECTION.—**In selecting from among applicants for a grant under this section for a new center for independent living, the Commissioner—

"(A) shall consider comments regarding the application, if any, by the Statewide Independent Living Council in the State in which the applicant is located;

"(B) shall consider the ability of each such applicant to operate a center for independent living based on—

"(i) evidence of the need for such a center;

"(ii) any past performance of such applicant in providing services comparable to independent living services;

"(iii) the plan for satisfying or demonstrated success in satisfying the standards and the assurances set forth in section 725;

"(iv) the quality of key personnel and the involvement of individuals with severe disabilities;

"(v) budgets and cost-effectiveness;

"(vi) an evaluation plan; and

"(vii) the ability of such applicant to carry out the plans; and

"(C) shall give priority to applications from applicants proposing to serve geographic areas within each State that are currently unserved or underserved by independent living programs, consistent with the provisions of the State plan submitted under section 704 regarding establishment of a statewide network of centers for independent living.

"(3) CURRENT CENTERS.—Notwithstanding paragraphs (1) and (2), a center for independent living that receives assistance under part B (or part A as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992) for a fiscal year for the general operation of the center shall be eligible for a grant for the subsequent fiscal year under this subsection.

"(e) ORDER OF PRIORITIES.—The Commissioner shall be guided by the following order of priorities in allocating funds among centers for independent living within a State, to the extent funds are available:

"(1) The Commissioner shall support existing centers for independent living, as described in subsection (c), that comply with the standards and assurances set forth in section 725, at the level of funding for the previous year.

"(2) The Commissioner shall provide for a cost-of-living increase for such existing centers for independent living.

"(3) The Commissioner shall fund new centers for independent living, as described in subsection (d), that comply with the standards and assurances set forth in section 725.

"(f) REVIEW.—

"(1) IN GENERAL.—The Commissioner shall periodically review each center receiving funds under this section to determine whether such center is in compliance with the standards and assurances set forth in section 725. If the Commissioner determines that any center receiving funds under this section is not in compliance with the standards and assurances set forth in section 725, the Commissioner shall immediately notify such center that it is out of compliance.

"(2) ENFORCEMENT.—The Commissioner shall terminate all funds under this section to such center 90 days after the date of such notification unless the center submits a plan

to achieve compliance within 90 days of such notification and such plan is approved by the Commissioner.

29 USC 796f-2. **"SEC. 723. GRANTS TO CENTERS FOR INDEPENDENT LIVING IN STATES IN WHICH STATE FUNDING EQUALS OR EXCEEDS FEDERAL FUNDING.**

**"(a) ESTABLISHMENT.—**

**"(1) IN GENERAL.—**

**"(A) INITIAL YEAR.—**

**"(i) DETERMINATION.—**Beginning on October 1, 1993, the director of a designated State unit, as provided in paragraph (2), or the Commissioner, as provided in paragraph (3), shall award grants under this section for an initial fiscal year if the Commissioner determines that the amount of State funds that were earmarked by a State for a preceding fiscal year to support the general operation of centers for independent living meeting the requirements of this part equaled or exceeded the amount of funds allotted to the State under subsection (c) or (d) of section 721 for such year.

**"(ii) GRANTS.—**The director or the Commissioner, as appropriate, shall award such grants, from the amount of funds so allotted for the initial fiscal year, to eligible agencies in the State for the planning, conduct, administration, and evaluation of centers for independent living that comply with the standards and assurances set forth in section 725.

**"(iii) REGULATION.—**The Commissioner shall by regulation specify the preceding fiscal year with respect to which the Commissioner will make the determinations described in clause (i) and subparagraph (B).

**"(B) SUBSEQUENT YEARS.—**For each year subsequent to the initial fiscal year described in subparagraph (A), the director of the designated State unit shall continue to have the authority to award such grants under this section if the Commissioner determines that the State continues to earmark the amount of State funds described in subparagraph (A)(i). If the State does not continue to earmark such an amount for a fiscal year, the State shall be ineligible to make grants under this section after a final year following such fiscal year, as defined in accordance with regulations established by the Commissioner, and for each subsequent fiscal year.

**"(2) GRANTS BY DESIGNATED STATE UNITS.—**In order for the designated State unit to be eligible to award the grants described in paragraph (1) and carry out this section for a fiscal year with respect to a State, the designated State agency shall submit an application to the Commissioner at such time, and in such manner as the Commissioner may require, including information about the amount of State funds described in paragraph (1) for the preceding fiscal year. If the Commissioner makes a determination described in subparagraph (A)(i) or (B), as appropriate, of paragraph (1), the Commissioner shall approve the application and designate the director of the designated State unit to award the grant and carry out this section.

"(3) GRANTS BY COMMISSIONER.—If the designated State agency of a State described in paragraph (1) does not submit and obtain approval of an application under paragraph (2), the Commissioner shall award the grant described in paragraph (1) to the State in accordance with section 722.

"(b) ELIGIBLE AGENCIES.—In any State in which the Commissioner has approved the State plan required by section 704, the director of the designated State unit may award a grant under this section to any eligible agency that—

"(1) has the power and authority to carry out the purpose of this part and perform the functions set forth in section 725 within a community and to receive and administer funds under this part, funds and contributions from private or public sources that may be used in support of a center for independent living, and funds from other public and private programs;

"(2) is determined by the director to be able to plan, conduct, administer, and evaluate a center for independent living, consistent with the standards and assurances set forth in section 725; and

"(3) submits an application to the director at such time, in such manner, and containing such information as the head of the designated State unit may require.

"(c) EXISTING ELIGIBLE AGENCIES.—In the administration of the provisions of this section, the director of the designated State unit shall award grants under this section to any eligible agency that is receiving funds under this part on September 30, 1993, unless the director makes a finding that the agency involved fails to comply with the standards and assurances set forth in section 725.

"(d) NEW CENTERS FOR INDEPENDENT LIVING.—

"(1) IN GENERAL.—If there is no center for independent living serving a region of the State or the region is unserved or underserved, and the increase in the allotment of the State is sufficient to support an additional center for independent living in the State, the director of the designated State unit may award a grant under this section from among eligible agencies, consistent with the provisions of the State plan under section 704 setting forth the design of the State for establishing a statewide network of centers for independent living.

"(2) SELECTION.—In selecting from among eligible agencies in awarding a grant under this part for a new center for independent living—

"(A) the director of the designated State unit and the chairperson of, or other individual designated by, the Statewide Independent Living Council acting on behalf of and at the direction of the Council, shall jointly appoint a peer review committee that shall rank applications in accordance with the standards and assurances set forth in section 725 and criteria jointly established by such director and such chairperson or individual;

"(B) the peer review committee shall consider the ability of each such applicant to operate a center for independent living, and shall recommend an applicant to receive a grant under this section, based on—

"(i) evidence of the need for a center for independent living, consistent with the State plan;



"(ii) any past performance of such applicant in providing services comparable to independent living services;

"(iii) the plan for complying with, or demonstrated success in complying with, the standards and the assurances set forth in section 725;

"(iv) the quality of key personnel of the applicant and the involvement of individuals with severe disabilities by the applicant;

"(v) the budgets and cost-effectiveness of the applicant;

"(vi) the evaluation plan of the applicant; and

"(vii) the ability of such applicant to carry out the plans; and

"(C) the director of the designated State unit shall award the grant on the basis of the recommendations of the peer review committee if the actions of the committee are consistent with Federal and State law.

"(3) CURRENT CENTERS.—Notwithstanding paragraphs (1) and (2), a center for independent living that receives assistance under part B (or part A as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992) for a fiscal year for the general operation of the center shall be eligible for a grant for the subsequent fiscal year under this subsection.

"(e) ORDER OF PRIORITIES.—Unless the director of the designated State unit and the chairperson of the Council or other individual designated by the Council acting on behalf of and at the direction of the Council jointly agree on another order of priority, the director shall be guided by the following order of priorities in allocating funds among centers for independent living within a State, to the extent funds are available:

"(1) The director of the designated State unit shall support existing centers for independent living, as described in subsection (c), that comply with the standards and assurances set forth in section 725, at the level of funding for the previous year.

"(2) The director of the designated State unit shall provide for a cost-of-living increase for such existing centers for independent living.

"(3) The director of the designated State unit shall fund new centers for independent living, as described in subsection (d), that comply with the standards and assurances set forth in section 725.

"(f) REVIEW.—

"(1) IN GENERAL.—The director of the designated State unit shall periodically review each center receiving funds under this section to determine whether such center is in compliance with the standards and assurances set forth in section 725. If the director of the designated State unit determines that any center receiving funds under this section is not in compliance with the standards and assurances set forth in section 725, the director of the designated State unit shall immediately notify such center that it is out of compliance.

"(2) ENFORCEMENT.—The director of the designated State unit shall terminate all funds under this section to such center 90 days after—

"(A) the date of such notification; or

"(B) in the case of a center that requests an appeal under subsection (h), the date of any final decision under subsection (h),

unless the center submits a plan to achieve compliance within 90 days and such plan is approved by the director, or if appealed, by the Commissioner.

"(g) ON-SITE COMPLIANCE REVIEW.—The director of the designated State unit shall conduct on-site compliance review of centers for independent living. Each team that conducts on-site compliance review of centers for independent living shall include at least one person who is not an employee of the designated State agency, who has experience in the operation of centers for independent living, and who is jointly selected by the director of the designated State unit and the chairperson of or other individual designated by the Council acting on behalf of and at the direction of the Council. A copy of this review shall be provided to the Commissioner.

"(h) ADVERSE ACTIONS.—If the director of the designated State unit proposes to take a significant adverse action against a center for independent living, the center may seek mediation and conciliation to be provided by an individual or individuals who are free of conflicts of interest identified by the chairperson of or other individual designated by the Council. If the issue is not resolved through the mediation and conciliation, the center may appeal the proposed adverse action to the Commissioner for a final decision.

**"SEC. 724. CENTERS OPERATED BY STATE AGENCIES.**

29 USC 796f-3.

"(a) FISCAL YEAR 1993.—

"(1) IN GENERAL.—Notwithstanding section 702(1), if—

"(A) no nonprofit private agency—

"(i) submits an acceptable application to operate a center for independent living for fiscal year 1993 before a date specified by the Commissioner; and

"(ii) obtains approval of the application under section 722 or 723; and

"(B) a State directly operated such a center in fiscal year 1992 with funds provided under part B, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992,

the State may apply to the Commissioner for assistance under section 721(e)(2) for the conduct, administration, and evaluation of such a center.

"(2) COMPLIANCE.—A State that receives assistance with respect to a center in accordance with paragraph (1) shall ensure that the center shall comply with all of the requirements of this part, other than the requirement that the center be a private nonprofit agency.

"(b) FISCAL YEAR 1994 AND SUCCEEDING FISCAL YEARS.—A State that receives assistance for fiscal year 1993 with respect to a center in accordance with subsection (a) may continue to receive assistance under this part for fiscal year 1994 or a succeeding fiscal year if, for such fiscal year—

"(1) no nonprofit private agency—

"(A) submits an acceptable application to operate a center for independent living for fiscal year 1993 before a date specified by the Commissioner; and

“(B) obtains approval of the application under section 722 or 723; or

“(2) after funding all applications so submitted and approved, the Commissioner determines that funds remain available to provide such assistance.

29 USC 796f-4.

**“SEC. 725. STANDARDS AND ASSURANCES FOR CENTERS FOR INDEPENDENT LIVING.**

“(a) IN GENERAL.—Each center for independent living that receives assistance under this part shall comply with the standards set out in subsection (b) and provide and comply with the assurances set out in subsection (c) in order to ensure that all programs and activities under this part are planned, conducted, administered, and evaluated in a manner consistent with the purposes of this chapter and the objective of providing assistance effectively and efficiently.

“(b) STANDARDS.—

“(1) PHILOSOPHY.—The center shall promote and practice the independent living philosophy of—

“(A) consumer control of the center regarding decision-making, service delivery, management, and establishment of the policy and direction of the center;

“(B) self-help and self-advocacy;

“(C) development of peer relationships and peer role models; and

“(D) equal access of individuals with severe disabilities to society and to all services, programs, activities, resources, and facilities, whether public or private and regardless of the funding source.

“(2) PROVISION OF SERVICES.—The center shall provide services to individuals with a range of severe disabilities. The center shall provide services on a cross-disability basis (for individuals with all different types of severe disabilities, including individuals with disabilities who are members of populations that are unserved or underserved by programs under this Act). Eligibility for services at any center for independent living shall not be based on the presence of any one or more specific severe disabilities.

“(3) INDEPENDENT LIVING GOALS.—The center shall facilitate the development and achievement of independent living goals selected by individuals with severe disabilities who seek such assistance by the center.

“(4) COMMUNITY OPTIONS.—The center shall work to increase the availability and improve the quality of community options for independent living in order to facilitate the development and achievement of independent living goals by individuals with severe disabilities.

“(5) INDEPENDENT LIVING CORE SERVICES.—The center shall provide independent living core services and, as appropriate, a combination of any other independent living services specified in section 7(30)(B).

“(6) ACTIVITIES TO INCREASE COMMUNITY CAPACITY.—The center shall conduct activities to increase the capacity of communities within the service area of the center to meet the needs of individuals with severe disabilities.

"(7) **RESOURCE DEVELOPMENT ACTIVITIES.**—The center shall conduct resource development activities to obtain funding from sources other than this chapter.

"(c) **ASSURANCES.**—The eligible agency shall provide at such time and in such manner as the Commissioner may require, such satisfactory assurances as the Commissioner may require, including satisfactory assurances that—

"(1) the applicant is an eligible agency;

"(2) the center will be designed and operated within local communities by individuals with disabilities, including an assurance that the center will have a Board that is the principal governing body of the center and a majority of which shall be composed of individuals with severe disabilities;

"(3) the applicant will comply with the standards set forth in subsection (b);

"(4) the applicant will establish clear priorities through annual and 3-year program and financial planning objectives for the center, including overall goals or a mission for the center, a work plan for achieving the goals or mission, specific objectives, service priorities, and types of services to be provided, and a description that shall demonstrate how the proposed activities of the applicant are consistent with the most recent 3-year State plan under section 704;

"(5) the applicant will use sound organizational and personnel assignment practices, including taking affirmative action to employ and advance in employment qualified individuals with severe disabilities on the same terms and conditions required with respect to the employment of individuals with disabilities under section 503;

"(6) the applicant will ensure that the majority of the staff, and individuals in decisionmaking positions, of the applicant are individuals with disabilities;

"(7) the applicant will practice sound fiscal management, including making arrangements for an annual independent fiscal audit;

"(8) the applicant will conduct annual self-evaluations, prepare an annual report, and maintain records adequate to measure performance with respect to the standards, containing information regarding, at a minimum—

"(A) the extent to which the center is in compliance with the standards;

"(B) the number and types of individuals with severe disabilities receiving services through the center;

"(C) the types of services provided through the center and the number of individuals with severe disabilities receiving each type of service;

"(D) the sources and amounts of funding for the operation of the center;

"(E) the number of individuals with severe disabilities who are employed by, and the number who are in management and decisionmaking positions in, the center; and

"(F) a comparison, when appropriate, of the activities of the center in prior years with the activities of the center in the most recent year;

"(9) individuals with severe disabilities who are seeking or receiving services at the center will be notified by the center

of the existence of, the availability of, and how to contact, the client assistance program;

"(10) aggressive outreach regarding services provided through the center will be conducted in an effort to reach populations of individuals with severe disabilities that are unserved or underserved by programs under this title, especially minority groups and urban and rural populations;

"(11) staff at centers for independent living will receive training on how to serve such unserved and underserved populations, including minority groups and urban and rural populations;

"(12) the center will submit to the Statewide Independent Living Council a copy of its approved grant application and the annual report required under paragraph (8);

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"(13) the center will prepare and submit a report to the designated State unit or the Commissioner, as the case may be, at the end of each fiscal year that contains the information described in paragraph (8) and information regarding the extent to which the center is in compliance with the standards set forth in subsection (b); and

"(14) an independent living plan described in section 704(e) will be developed unless the individual who would receive services under the plan signs a waiver stating that such a plan is unnecessary.

29 USC 796f-5.

**"SEC. 726. DEFINITIONS.**

"As used in this part, the term 'eligible agency' means a consumer-controlled, community-based, cross-disability, nonresidential private nonprofit agency.

29 USC 796f-6.

**"SEC. 727. AUTHORIZATION OF APPROPRIATIONS.**

"There are authorized to be appropriated to carry out this part such sums as may be necessary for each of the fiscal years 1993, 1994, 1995, 1996, and 1997."

29 USC 796 note.

**SEC. 702. EFFECTIVE DATE.**

(a) **IN GENERAL.**—Except as provided in subsections (b) and (c), this title and the amendments made by this title shall take effect on the date of enactment of this Act.

(b) **CENTERS FOR INDEPENDENT LIVING.**—The provisions of part C of chapter 1 of title VII of the Rehabilitation Act of 1973 (as added by section 701 of this Act), shall not apply with respect to fiscal year 1992 for programs receiving assistance under part B of such chapter, as in effect on the day before the date of enactment of this Act. The provisions of such part B shall continue to apply for such programs with respect to fiscal year 1992.

(c) **STATE PLAN.**—The Secretary of Education shall implement the provisions of section 704 of the Rehabilitation Act of 1973 (as amended by section 701 of this Act), as soon as is practicable after the date of enactment of this Act, consistent with the effective and efficient administration of the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), but not later than October 1, 1993.

**SEC. 703. INDEPENDENT LIVING SERVICES FOR OLDER INDIVIDUALS WHO ARE BLIND.**

(a) **SERVICES.**—Title VII (29 U.S.C. 796 et seq.) is amended by adding at the end the following:

**"CHAPTER 2—INDEPENDENT LIVING SERVICES FOR OLDER INDIVIDUALS WHO ARE BLIND****"SEC. 751. DEFINITION.**

29 USC 796j.

"For purposes of this chapter, the term 'older individual who is blind' means an individual age 55 or older whose severe visual impairment makes competitive employment extremely difficult to attain but for whom independent living goals are feasible.

**"SEC. 752. PROGRAM OF GRANTS.**

29 USC 796k.

**"(a) IN GENERAL.—**

"(1) **AUTHORITY FOR GRANTS.**—Subject to subsections (b) and (c), the Commissioner may make grants to States for the purpose of providing the services described in subsection (d) to older individuals who are blind.

"(2) **DESIGNATED STATE UNIT.**—The Commissioner may not make a grant under subsection (a) unless the State involved agrees that the grant will be administered solely by the agency described in section 101(a)(1)(A)(i).

"(b) **CONTINGENT COMPETITIVE GRANTS.**—Beginning with fiscal year 1994, in the case of any fiscal year for which the amount appropriated under section 753 is less than \$13,000,000, grants under subsection (a) shall be discretionary grants made on a competitive basis to States.

**"(c) CONTINGENT FORMULA GRANTS.—**

"(1) **IN GENERAL.**—In the case of any fiscal year for which the amount appropriated under section 753 is equal to or greater than \$13,000,000, grants under subsection (a) shall be made only to States and shall be made only from allotments under paragraph (2).

"(2) **ALLOTMENTS.**—For grants under subsection (a) for a fiscal year described in paragraph (1), the Commissioner shall make an allotment to each State in an amount determined in accordance with subsection (j), and shall make a grant to the State of the allotment made for the State if the State submits to the Commissioner an application in accordance with subsection (i).

"(d) **SERVICES GENERALLY.**—The Commissioner may not make a grant under subsection (a) unless the State involved agrees that the grant will be expended only for purposes of—

"(1) providing independent living services to older individuals who are blind;

"(2) conducting activities that will improve or expand services for such individuals; and

"(3) conducting activities to help improve public understanding of the problems of such individuals.

"(e) **INDEPENDENT LIVING SERVICES.**—Independent living services for purposes of subsection (d)(1) include—

"(1) services to help correct blindness, such as—

"(A) outreach services;

"(B) visual screening;

"(C) surgical or therapeutic treatment to prevent, correct, or modify disabling eye conditions; and

"(D) hospitalization related to such services;

"(2) the provision of eyeglasses and other visual aids;

"(3) the provision of services and equipment to assist an older individual who is blind to become more mobile and more self-sufficient;

"(4) mobility training, Braille instruction, and other services and equipment to help an older individual who is blind adjust to blindness;

"(5) guide services, reader services, and transportation;

"(6) any other appropriate service designed to assist an older individual who is blind in coping with daily living activities, including supportive services and rehabilitation teaching services;

"(7) independent living skills training, information and referral services, peer counseling, and individual advocacy training; and

"(8) other independent living services, as defined in section 7(30).

**"(f) MATCHING FUNDS.—**

"(1) IN GENERAL.—The Commissioner may not make a grant under subsection (a) unless the State involved agrees, with respect to the costs of the program to be carried out by the State pursuant to such subsection, to make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that is not less than \$1 for each \$9 of Federal funds provided in the grant.

"(2) DETERMINATION OF AMOUNT CONTRIBUTED.—Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"(g) CERTAIN EXPENDITURES OF GRANTS.—A State may expend a grant under subsection (a) to carry out the purposes specified in subsection (d) through grants to public and nonprofit private agencies or organizations.

"(h) REQUIREMENT REGARDING STATE PLAN.—The Commissioner may not make a grant under subsection (a) unless the State involved agrees that, in carrying out subsection (d)(1), the State will seek to incorporate into the State plan under section 704 any new methods and approaches relating to independent living services for older individuals who are blind.

**"(i) APPLICATION FOR GRANT.—**

"(1) IN GENERAL.—The Commissioner may not make a grant under subsection (a) unless an application for the grant is submitted to the Commissioner and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Commissioner determines to be necessary to carry out this section (including agreements, assurances, and information with respect to any grants under subsection (j)(4)).

"(2) CONTENTS.—An application for a grant under this section shall contain—

"(A) an assurance that the designated State unit described in subsection (a)(2) will prepare and submit to the Commissioner a report, at the end of each fiscal year, with respect to each project or program the designated

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State unit operates or administers under this section, whether directly or through a grant or contract, which report shall contain, at a minimum, information on—

“(i) the number and types of older individuals who are blind and are receiving services;

“(ii) the types of services provided and the number of older individuals who are blind and are receiving each type of service;

“(iii) the sources and amounts of funding for the operation of each project or program;

“(iv) the amounts and percentages of resources committed to each type of service provided;

“(v) data on actions taken to employ, and advance in employment, qualified individuals with severe disabilities, including older individuals who are blind; and

“(vi) a comparison, if appropriate, of prior year activities with the activities of the most recent year;

“(B) an assurance that the designated State unit will—

“(i) provide services that contribute to the maintenance of, or the increased independence of, older individuals who are blind; and

“(ii) engage in—

“(I) capacity-building activities, including collaboration with other agencies and organizations;

“(II) activities to promote community awareness, involvement, and assistance; and

“(III) outreach efforts; and

“(C) an assurance that the application is consistent with the State plan for providing independent living services required by section 704.

“(j) AMOUNT OF FORMULA GRANT.—

“(1) IN GENERAL.—Subject to the availability of appropriations, the amount of an allotment under subsection (a) for a State for a fiscal year shall be the greater of—

“(A) the amount determined under paragraph (2); and

“(B) the amount determined under paragraph (3).

“(2) MINIMUM ALLOTMENT.—

“(A) STATES.—In the case of the several States, the District of Columbia, and the Commonwealth of Puerto Rico, the amount referred to in subparagraph (A) of paragraph (1) for a fiscal year is the greater of—

“(i) \$225,000; and

“(ii) an amount equal to one-third of one percent of the amount appropriated under section 753 for the fiscal year and available for allotments under subsection (a).

“(B) CERTAIN TERRITORIES.—In the case of Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau, the amount referred to in subparagraph (A) of paragraph (1) for a fiscal year is \$40,000, except that the Republic of Palau may receive such allotment under this section only until the Compact of Free Association with Palau takes effect.



"(3) **FORMULA.**—The amount referred to in subparagraph (B) of paragraph (1) for a State for a fiscal year is the product of—

"(A) the amount appropriated under section 753 and available for allotments under subsection (a); and

"(B) a percentage equal to the quotient of—

"(i) an amount equal to the number of individuals residing in the State who are not less than 55 years of age; divided by

"(ii) an amount equal to the number of individuals residing in the United States who are not less than 55 years of age.

"(4) **DISPOSITION OF CERTAIN AMOUNTS.**—

Handicapped.

"(A) **GRANTS.**—From the amounts specified in subparagraph (B), the Commissioner may make grants to States whose population of older individuals who are blind has a substantial need for the services specified in subsection (d) relative to the populations in other States of older individuals who are blind.

"(B) **AMOUNTS.**—The amounts referred to in subparagraph (A) are any amounts that are not paid to States under subsection (a) as a result of—

"(i) the failure of any State to submit an application under subsection (i);

"(ii) the failure of any State to prepare within a reasonable period of time such application in compliance with such subsection; or

"(iii) any State informing the Commissioner that the State does not intend to expend the full amount of the allotment made for the State under subsection (a).

"(C) **CONDITIONS.**—The Commissioner may not make a grant under subparagraph (A) unless the State involved agrees that the grant is subject to the same conditions as grants made under subsection (a).

29 USC 796f.

#### "SEC. 753. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this chapter such sums as may be necessary for each of the fiscal years 1993 through 1997."

(b) **TECHNICAL AMENDMENT.**—The table of contents relating to the Act is amended by striking the items relating to title VII and inserting the following:

#### "TITLE VII—INDEPENDENT LIVING SERVICES AND CENTERS FOR INDEPENDENT LIVING

##### "CHAPTER 1—INDIVIDUALS WITH SEVERE DISABILITIES

##### "PART A—GENERAL PROVISIONS

"Sec. 701. Purpose.

"Sec. 702. Definitions.

"Sec. 703. Eligibility for receipt of services.

"Sec. 704. State plan.

"Sec. 705. Statewide Independent Living Council.

"Sec. 706. Responsibilities of the Commissioner.

##### "PART B—INDEPENDENT LIVING SERVICES

"Sec. 711. Allotments.

"Sec. 712. Payments to States from allotments.

"Sec. 713. Authorized uses of funds.

“Sec. 714. Authorization of appropriations.

**“PART C—CENTERS FOR INDEPENDENT LIVING**

“Sec. 721. Program authorization.

“Sec. 722. Grants to centers for independent living in States in which Federal funding exceeds State funding.

“Sec. 723. Grants to centers for independent living in States in which State funding equals or exceeds Federal funding.

“Sec. 724. Centers operated by State agencies.

“Sec. 725. Standards and assurances for centers for independent living.

“Sec. 726. Definitions.

“Sec. 727. Authorization of appropriations.

**“CHAPTER 2—INDEPENDENT LIVING SERVICES FOR OLDER INDIVIDUALS WHO ARE BLIND**

“Sec. 751. Definition.

“Sec. 752. Program of grants.

“Sec. 753. Authorization of appropriations.”.

## **TITLE VIII—SPECIAL DEMONSTRATIONS AND TRAINING PROJECTS**

### **SEC. 801. SPECIAL DEMONSTRATIONS AND TRAINING PROJECTS.**

(a) IN GENERAL.—The Act (29 U.S.C. 701 et seq.) is amended by adding at the end the following title:

### **“TITLE VIII—SPECIAL DEMONSTRATIONS AND TRAINING PROJECTS**

#### **“SEC. 801. AUTHORIZATION OF APPROPRIATIONS.**

29 USC 797.

“(a) DEMONSTRATION PROJECTS.—There are authorized to be appropriated to carry out section 802, such sums as may be necessary for each of the fiscal years 1993 through 1997.

“(b) TRAINING INITIATIVES.—There are authorized to be appropriated to carry out section 803, such sums as may be necessary for each of the fiscal years 1993 through 1997.

#### **“SEC. 802. DEMONSTRATION ACTIVITIES.**

29 USC 797a.

“(a) TRANSPORTATION SERVICES GRANTS.—

“(1) GRANTS.—The Commissioner shall make grants to States and to public or nonprofit agencies and organizations for the purpose of providing transportation services to individuals with disabilities who—

“(A)(i) are employed or seeking employment; or

“(ii) are receiving vocational rehabilitation services from public or private organizations; and

“(B) reside in geographic areas in which fixed route public transportation or comparable paratransit service is not available.

“(2) USE OF GRANT.—The Commissioner may make a grant under this subsection only if the applicant involved agrees that transportation services under this subsection will be provided on a regular and continuing basis between—

“(A) the home of the individual; and

“(B) the place of employment of the individual, the place where the individual is seeking employment, or the place where the individual is receiving vocational rehabilitation services.

**"(3) CHARGES.**—The Commissioner may make a grant under paragraph (1) only if the applicant involved agrees that, in providing transportation services under this subsection—

**"(A)** a charge for the transportation will be imposed on each employed eligible individual who uses the transportation; and

**"(B)** the amount of the charge for an instance of use of the transportation for the distance involved will be in a fair and reasonable amount that is consistent with fees for comparable services in comparable geographic areas.

**"(4) REPORT.**—The Commissioner may make a grant under this subsection only if the applicant involved agrees to prepare and submit to the Commissioner, not later than December 31 of the fiscal year following the fiscal year for which the grant is made, a report containing—

**"(A)** a description of the goals of the program carried out with the grant;

**"(B)** a description of the activities and services provided under the program;

**"(C)** a description of the number of eligible individuals served under the program;

**"(D)** a description of methods used to ensure that the program serves the eligible individuals most in need of the transportation services provided under the program; and

**"(E)** such additional information as the Commissioner may require.

**"(5) CONSTRUCTION.**—Nothing in this subsection may be construed as limiting the rights or responsibilities of any individual under any other provision of this Act, under the Americans with Disabilities Act of 1990, or under any other provision of law.

**"(b) PROJECTS TO ACHIEVE HIGH QUALITY PLACEMENTS.**—

**"(1) SPECIAL PROJECTS AND DEMONSTRATIONS.**—The Commissioner shall make grants to public or nonprofit community rehabilitation programs, designated State units, and other public or nonprofit agencies and organizations to pay for the cost of developing special projects and demonstrations related to vocational rehabilitation outcomes. Such projects and demonstrations may include activities providing alternatives to case closure practice and identifying and implementing appropriate incentives to vocational rehabilitation counselors to achieve high quality placements for individuals with the most severe disabilities.

**"(2) CERTAIN REQUIREMENTS.**—Each recipient of such a grant shall—

**"(A)** identify, develop, and test exemplary models that can be replicated; and

**"(B)** identify innovative methods, such as weighted case closures, to evaluate the performance of vocational rehabilitation counselors that in no way impede the accomplishment of the purposes and policy of serving, among others, those individuals with the most severe disabilities.

**"(c) EARLY INTERVENTION DEMONSTRATION PROGRAMS.**—

**"(1) GRANTS.**—The Commissioner shall make grants to public or nonprofit agencies and organizations to carry out demonstration programs designed to demonstrate the utility of early

Grants.

intervention in furnishing vocational evaluation, training, and counseling services to working adults recently determined to have chronic and progressive diseases that may be severely disabling, such as multiple sclerosis.

**"(2) GRANT ACTIVITIES.**—In carrying out a demonstration program under paragraph (1), an eligible entity shall conduct a program intended to demonstrate the effectiveness of such early intervention in improving the job retention of the working adults or in facilitating the entry of the working adults to new careers and employment. The demonstration program shall test a number of alternative service systems, including an employer assistance program, a system involving early intervention by State vocational rehabilitation agencies, and a private nonprofit agency joint venture with an employer or State vocational rehabilitation agency.

**"(d) TRANSITION DEMONSTRATION PROJECTS.**—

**"(1) GRANTS.**—The Commissioner may make grants to public or nonprofit agencies and organizations to pay part or all of the costs of special projects and demonstration projects to support models for providing community-based, coordinated services to facilitate the transition of individuals with disabilities from rehabilitation hospital or nursing home programs or comparable programs, to programs providing independent living services in the community, including services such as personal assistance services, health maintenance services, counseling, and social and vocational services.

**"(2) APPLICATION.**—To be eligible to receive a grant under this subsection, an agency or organization shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

**"(3) EVALUATION.**—An agency or organization that receives a grant under this subsection shall evaluate the effectiveness of such models and prepare and submit to the Commissioner a report containing the evaluation.

**"(e) BARRIERS TO SUCCESSFUL REHABILITATION OUTCOMES FOR MINORITIES.**—The Commissioner may award grants to public or nonprofit agencies and organizations—

**"(1)** to conduct a study to examine the factors that have created barriers to successful rehabilitation outcomes for individuals with disabilities from minority backgrounds, and develop and evaluate policy, research, and training strategies for overcoming the barriers;

**"(2)** to conduct a study to examine the factors that have created significant underrepresentation of individuals from minority backgrounds in the rehabilitation professions, including such underrepresentation among researchers, and develop and evaluate policy, research, and training strategies for overcoming the underrepresentation; and

**"(3)** to conduct a study to examine the factors that have created barriers to successful rehabilitation outcomes for individuals with neurological or other related disorders, and examine how the hidden or episodic nature of the disability affects eligibility and the provision of services.

**"(f) STUDIES, SPECIAL PROJECTS, AND DEMONSTRATION PROJECTS TO STUDY MANAGEMENT AND SERVICE DELIVERY.**—

"(1) GRANTS.—The Commissioner may make grants to public or nonprofit agencies and organizations to pay part or all of the costs of conducting studies, special projects, or demonstration projects relating to the management and service delivery systems of the vocational rehabilitation programs authorized under this Act.

"(2) APPLICATION.—To be eligible to receive a grant under this subsection, an agency or organization shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

"(g) DEMONSTRATION PROJECTS TO INCREASE CLIENT CHOICE.—

"(1) GRANTS.—The Commissioner may make grants to States and public or nonprofit agencies and organizations to pay all or part of the costs of projects to demonstrate ways to increase client choice in the rehabilitation process, including the selection of providers of vocational rehabilitation services.

"(2) USE OF FUNDS.—An entity that receives a grant under this subsection shall use the grant only—

"(A) for activities that are directly related to planning, operating, and evaluating the demonstration projects; and

"(B) to supplement, and not supplant, funds made available from Federal and non-Federal sources for such projects.

"(3) APPLICATION.—Any eligible entity that desires to receive a grant under this subsection shall submit an application at such time, in such manner, and containing such information and assurances as the Commissioner may require, including—

"(A) a description of—

"(i) how the applicant intends to promote increased client choice in the rehabilitation process, including a description, if appropriate, of how an applicant will determine the cost of any service or product offered to an eligible client;

"(ii) how the applicant intends to ensure that any vocational rehabilitation service or related service is provided by a qualified provider who is accredited or meets such other quality assurance and cost-control criteria as the State may establish; and

"(iii) the outreach activities to be conducted by the applicant to obtain eligible clients; and

"(B) assurances that a written plan will be established with the full participation of the client, which plan shall, at a minimum, include—

"(i) a statement of the vocational rehabilitation goals to be achieved;

"(ii) a statement of the specific vocational rehabilitation services to be provided, the projected dates for their initiation, and the anticipated duration of each such service; and

"(iii) objective criteria, an evaluation procedure, and a schedule, for determining whether such goals are being achieved.

"(4) AWARD OF GRANTS.—In selecting entities to receive grants under paragraph (1), the Commissioner shall take into consideration the—

"(A) diversity of strategies used to increase client choice, including selection among qualified service providers;

"(B) geographic distribution of projects; and

"(C) diversity of clients to be served.

"(5) RECORDS.—Entities that receive grants under paragraph (1) shall maintain such records as the Commissioner may require and comply with any request from the Commissioner for such records.

"(6) DIRECT SERVICES.—At least 80 percent of the funds awarded for any project under this subsection shall be used for direct services, as specifically chosen by eligible clients.

"(7) EVALUATION.—The Commissioner shall conduct an evaluation of the demonstration projects with respect to the services provided, clients served, client outcomes obtained, implementation issues addressed, the cost effectiveness of the project, and the effects of increased choice on clients and service providers. The Commissioner may reserve funds for the evaluation for a fiscal year from the amounts appropriated to carry out projects under this subsection for the fiscal year.

"(8) DEFINITIONS.—For the purposes of this subsection:

"(A) DIRECT SERVICES.—The term 'direct services' means vocational rehabilitation services, as described in section 103(a).

"(B) ELIGIBLE CLIENT.—The term 'eligible client' means an individual with a disability, as defined in section 7(8)(A), who is not currently receiving services under an individualized written rehabilitation program established through a designated State unit.

"(h) NATIONAL COMMISSION ON REHABILITATION SERVICES.—  
"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—Subject to the availability of appropriations, there is hereby established a National Commission on Rehabilitation Services (referred to in this section as the 'National Commission') for the purpose of studying the nature, quality, and adequacy of vocational rehabilitation, independent living, supported employment, research, training, and other programs authorized under this Act, and submitting to the President and to Congress recommendations that will further the successful employment outcomes, independence, and integration of individuals with disabilities into the workplace and community.

"(B) COMPOSITION.—

"(i) QUALIFICATIONS.—The National Commission shall consist of 15 members who are recognized by knowledge, experience, and education as experts in the field of rehabilitation. At least a majority of the members of the National Commission shall be individuals with disabilities representing a cross-section of individuals with different types of disabilities.

"(ii) APPOINTMENT.—Members of the National Commission shall be appointed as follows:

"(I) PRESIDENTIAL APPOINTEES.—Five members shall be appointed by the President, or, if the President delegates the authority to make the appointment, by the Secretary of Education.

"(II) SENATE APPOINTEES.—Five members shall be appointed by the president pro tempore of the Senate, with the advice and approval of the Majority Leader and Minority Leader of the Senate.

"(III) HOUSE OF REPRESENTATIVES APPOINTEES.—Five members shall be appointed by the Speaker of the House of Representatives with the advice and approval of the Majority Leader and Minority Leader of the House of Representatives.

"(C) TERM.—Members shall be appointed for the life of the National Commission.

"(D) VACANCIES.—Any vacancy in the National Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

"(E) CHAIRPERSON.—The National Commission shall select a Chairperson from among its members.

"(F) MEETINGS.—The National Commission shall meet at the call of the Chairperson, but not less often than four times each year.

"(G) QUORUM.—Ten members of the National Commission shall constitute a quorum.

"(H) COMMITTEES.—The Chairperson, upon approval by the National Commission, may establish such committees as the Chairperson determines to be necessary to fulfill the duties of the National Commission.

"(2) DUTIES.—

"(A) STUDIES AND ANALYSES.—The National Commission shall conduct studies and analyses with respect to—

"(i) the effectiveness of vocational rehabilitation and independent living services in enhancing the employment outcomes of individuals with disabilities;

"(ii) the adequacy of research and training activities in fostering innovative approaches that further the employment of individuals with disabilities;

"(iii) the capacity of supported employment and independent living services in promoting the integration of individuals with disabilities into the workplace and community;

"(iv) methods for enhancing access to services authorized under this Act by minorities who are individuals with disabilities and individuals with disabilities who are members of populations that have traditionally been unserved or underserved by programs under this Act that provide such vocational rehabilitation services and independent living services;

"(v) means for enhancing interagency coordination among Federal and State agencies to promote the maximization of employment-related programs, services, and benefits on behalf of individuals with disabilities; and

"(vi) such other issues as the National Commission may identify as relevant to promoting the employment, independence, and integration of individuals with disabilities.

"(B) POLICY ANALYSES.—The National Commission shall conduct policy analyses to—

"(i) develop options for improving fiscal equity in the allotment of grants under section 110;

"(ii) provide guidance on implementing the order of selection described in section 101(a)(5)(A); and

"(iii) address the shortage of rehabilitation professionals.

**"(C) REPORTS.—**

"(i) **INTERIM REPORT.**—Not later than January 30, 1995, the National Commission shall prepare and issue a comprehensive interim report to the President, the Committee on Education and Labor of the House of Representatives, and the Committee on Labor and Human Resources of the Senate, containing the results of the studies and analyses described in subparagraphs (A) and (B) and specific recommendations for amendments to this Act needed to promote the provision of comprehensive vocational rehabilitation and independent living services on behalf of individuals with disabilities.

"(ii) **FINAL REPORT.**—Not later than January 30, 1997, the National Commission shall prepare and issue a comprehensive final report to the President, the Committee on Education and Labor of the House of Representatives, and the Committee on Labor and Human Resources of the Senate, containing the results and recommendations described in clause (i).

**"(3) POWERS.—**

"(A) **HEARINGS.**—The National Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the National Commission determines to be necessary to carry out its functions.

**"(B) INFORMATION.—**

"(i) **FEDERAL ENTITIES.**—The National Commission may secure directly from any Federal department or agency such information (including statistics) as the National Commission considers necessary to carry out the functions of the National Commission. Upon request of the Chairperson of the National Commission, the head of such department or agency shall furnish such information to the National Commission.

"(ii) **OTHER ENTITIES.**—The National Commission may secure, directly or by contract or other means, such additional information as the National Commission determines to be necessary from universities, research institutions, foundations, State and local agencies, and other public or private agencies.

**"(C) CONSULTATION.**—The National Commission is authorized to consult with—

"(i) any organization representing individuals with disabilities;

"(ii) public or private service providers;

"(iii) Federal, State, and local agencies;

"(iv) individual experts;

"(v) institutions of higher education involved in the preparation of vocational rehabilitation services personnel; and



"(vi) such other entities and persons as will aid the National Commission in carrying out its duties."  
"(4) COMPENSATION AND TRAVEL EXPENSES.—

"(A) COMPENSATION.—Each member of the National Commission who is not an officer or full-time employee of the Federal Government shall receive a payment of \$150 for each day (including travel time) during which the member is engaged in the performance of duties for the National Commission. Members of the National Commission who are officers or full-time employees of the United States shall serve without compensation in addition to compensation received for their services as officers or employees of the United States.

"(B) TRAVEL EXPENSES.—Each member of the National Commission may receive travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for employees serving intermittently in the Government service, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

"(5) STAFF.—

"(A) APPOINTMENT.—

"(i) STAFF DIRECTOR.—The Chairperson of the National Commission may, without regard to provisions of title 5, United States Code, governing appointments in the competitive service, appoint and terminate a staff director of the National Commission. The employment of the staff director shall be subject to confirmation by the National Commission. The staff director shall be appointed from among individuals who are experienced in the planning, administration, or operation of vocational rehabilitation and independent living services or programs.

"(ii) ADDITIONAL PERSONNEL.—The staff director of the National Commission may, without regard to provisions of title 5, United States Code, governing appointments in the competitive service, appoint and terminate such additional personnel as may be necessary, but not more than ten full-time equivalent positions, to enable the National Commission to carry out its duties.

"(B) COMPENSATION.—The Chairperson of the National Commission may fix the compensation of the staff director, and the staff director may fix the compensation of the additional personnel, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates, except that the rate of pay for the staff director and other personnel may not exceed the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382 of title 5, United States Code.

"(6) COOPERATION.—The heads of all Federal agencies are, to the extent not prohibited by law, directed to cooperate with the National Commission in carrying out its duties. The National Commission may utilize the services, personnel, information, and facilities of other Federal, State, local, and

private agencies with or without reimbursement, upon the consent of the heads of such agencies.

"(7) **DETAIL OF GOVERNMENT EMPLOYEES.**—Any Federal Government employee may be detailed to the National Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

"(8) **TERMINATION.**—The National Commission shall terminate not later than 90 days following the submission of the final report as described in paragraph (2)(C)(ii).

"(i) **MODEL PERSONAL ASSISTANCE SERVICES SYSTEMS.**—The Commissioner may award grants to public or nonprofit agencies and organizations to establish model personal assistance services systems and other innovative service programs to maximize the full inclusion and integration into society, employment, independent living, and economic and social self-sufficiency of individuals with disabilities.

"(j) **DEMONSTRATION PROJECTS TO UPGRADE WORKER SKILLS.**—

"(1) **GRANTS.**—Consistent with the purposes of section 621, the Commissioner may make grants to partnerships or consortia that include private business concerns or industries to pay for the Federal share of developing and carrying out model demonstration projects for workers with disabilities who need new or upgraded skills to adapt to emerging technologies, work methods, and markets and to ensure that such individuals possess the knowledge and skills necessary to compete in the workplace.

"(2) **PERIOD.**—Grants made under this subsection shall be for 3-year periods.

"(3) **APPLICATION.**—Any partnership or consortia desiring to receive a grant under this subsection shall submit an application to the Commissioner at such time, in such manner, and containing such information and assurances as the Commissioner may require, including—

"(A) information identifying at least one member of the partnership or consortium that is a private business concern or industry; and

"(B) assurances that—

"(i) each member of the eligible partnership or consortium will pay a portion of the non-Federal share of the cost of developing and carrying out the project;

"(ii) the partnership or consortium will carry out all of the activities described in subparagraphs (A) through (E) of section 621(a)(2);

"(iii) the partnership or consortium will disseminate information on the model program conducted;

"(iv) the partnership or consortium will utilize, if available, job skill standards established jointly by management and labor to assist in evaluating the job skills of an individual and assessing the skills that are needed for the individual to compete in the workplace;

"(v) the partnership or consortium will prepare and submit an evaluation report containing data specified by the Commissioner at the end of each project year; and

"(vi) the partnership or consortium will take such steps as are necessary to continue the activities of

the project after the period for which Federal assistance is sought.

"(4) DEFINITION.—For the purposes of this subsection, the term 'workers with disabilities' shall mean individuals with disabilities who are working in competitive employment and who need new or upgraded skills to improve their employment and career advancement opportunities.

"(k) MODEL SYSTEMS REGARDING SEVERE DISABILITIES.—The Commissioner may award grants to public or nonprofit agencies and organizations to establish model systems of comprehensive service delivery to individuals with severe disabilities, other than spinal cord injuries, requiring a multidisciplinary system of providing vocational and other rehabilitation services, where the Commissioner determines that the development of such systems is needed.

29 USC 797b.

**"SEC. 803. TRAINING ACTIVITIES.**

**"(a) DISTANCE LEARNING THROUGH TELECOMMUNICATIONS.—**

**"(1) GRANTS.—**The Commissioner shall award at least three grants to eligible institutions of higher education, to support the formation of regional partnerships with other public or private entities for the purpose of developing and implementing in-service training programs, including certificate or degree granting programs concerning vocational rehabilitation services and related services, for vocational rehabilitation professionals through the use of telecommunications.

**"(2) APPLICATIONS.—**Any eligible entity that desires to receive a grant under this subsection shall submit an application at such time, in such manner, and containing such information and assurances as the Commissioner may require, including—

**"(A)** a detailed explanation of how the applicant will utilize interactive audio, video, and computer technologies between distant locations to provide in-service training programs to the region;

**"(B)** a description of how the applicant intends to utilize and build upon existing telecommunications networks within the region to be served;

**"(C)** a copy of all agreements governing the division of functions within the partnership, including an assurance that all States within the region will be served;

**"(D)** a copy of a binding commitment entered into between the partnership and each entity that is legally permitted to provide, and from which the partnership is to obtain, the telecommunications services and facilities required for the project, that stipulates that if the partnership receives the grant the entity will provide such telecommunications services and facilities in the area to be served within a reasonable time and at a charge that is in accordance with State law;

**"(E)** a description of the curriculum to be provided, frequency of providing service, and sites of service;

**"(F)** a description of the need to purchase or lease—

**"(i)** computer hardware and software;

**"(ii)** audio and video equipment;

**"(iii)** telecommunications terminal equipment; or

**"(iv)** interactive video equipment;

"(G) an assurance that the partnership will use not less than 75 percent of the amount of the grant for instructional curriculum development and programming; and

"(H) a description of the means by which the project will be evaluated.

"(3) AWARD OF GRANTS.—In awarding grants under paragraph (1), the Commissioner shall take into consideration the sparsity of State populations in the region to be served.

"(4) DEFINITIONS.—For the purposes of this subsection:

"(A) ELIGIBLE ENTITY.—The term 'eligible entity' means any institution of higher education with demonstrated experience in the area of continuing education for vocational rehabilitation personnel.

"(B) INTERACTIVE VIDEO EQUIPMENT.—The term 'interactive video equipment' means equipment used to produce and prepare video and audio signals for transmission between distant locations so that individuals at such locations can see and hear each other, and related equipment.

"(C) REGION.—The term 'region' means one of the ten regions served by the Rehabilitation Services Administration.

"(D) REHABILITATION PROFESSIONALS.—The term 'rehabilitation professionals' means personnel described in section 301(a)(1).

"(b) BRAILLE TRAINING PROJECTS.—

"(1) ESTABLISHMENT.—The Commissioner shall make grants to and enter into contracts with States and public or nonprofit agencies and organizations, including institutions of higher education, to pay all or part of the cost of training in the use of Braille for personnel providing vocational rehabilitation services or educational services to youth and adults who are blind.

Grants.  
Contracts.

"(2) PROJECTS.—Such grants shall be used for the establishment or continuation of projects that may provide—

"(A) development of Braille training materials; and

"(B) in-service or pre-service training in the use of Braille and methods of teaching Braille to youth and adults who are blind.

"(3) APPLICATION.—To be eligible to receive a grant, or enter into a contract, under paragraph (1), an agency or organization shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

"(c) PARENT INFORMATION AND TRAINING PROGRAMS.—

"(1) GRANTS.—The Commissioner is authorized to make grants through a separate competition to private nonprofit organizations for the purpose of establishing programs to provide training and information to enable individuals with disabilities, and the parents, family members, guardians, advocates, or other authorized representatives of the individuals to participate more effectively with professionals in meeting the vocational and rehabilitation needs of individuals with disabilities. Such grants shall be designed to meet the unique training and information needs of individuals with disabilities, and the parents, family members, guardians, advocates, or other authorized representatives of the individuals, who live in the area to be served, particularly those who are members of populations

that have been unserved or underserved by programs under this Act.

**"(2) USE OF GRANTS.**—An organization that receives a grant to establish training and information programs under this subsection shall use the grant to assist individuals with disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals to—

**"(A)** better understand vocational rehabilitation and independent living programs and services;

**"(B)** provide followup support for transition and employment programs;

**"(C)** communicate more effectively with transition and rehabilitation personnel and other relevant professionals;

**"(D)** provide support in the development of the individualized written rehabilitation program;

**"(E)** provide support and expertise in obtaining information about rehabilitation and independent living programs, services, and resources that are appropriate; and

**"(F)** understand the provisions of this Act, particularly provisions relating to employment, supported employment, and independent living.

**"(3) AWARD OF GRANTS.**—The Commissioner shall ensure that grants under this subsection shall—

**"(A)** be distributed geographically to the greatest extent possible throughout all States; and

**"(B)** be targeted to individuals with disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals, in both urban and rural areas or on a State or regional basis.

**"(4) ELIGIBLE ORGANIZATIONS.**—In order to receive a grant under this subsection, a private nonprofit organization shall—

**"(A)** submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require, including information demonstrating the capacity and expertise of the organization to—

**"(i)** coordinate and work closely with parent training and information centers established under section 631 of the Individuals with Disabilities Education Act (20 U.S.C. 1431); and

**"(ii)** effectively conduct the training and information activities authorized under this subsection;

**"(B)(i)** be governed by a board of directors—

**"(I)** that includes professionals in the field of vocational rehabilitation; and

**"(II)** on which a majority of the members are individuals with disabilities or the parents, family members, guardians, advocates, or authorized representatives of the individuals; or

**"(ii)(I)** have a membership that represents the interests of individuals with disabilities; and

**"(II)** establish a special governing committee that meets the requirements specified in subclauses (I) and (II) of clause (i) to operate a training and information program under this subsection; and

"(C) serve individuals with a full range of disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals.

"(5) CONSULTATION.—Each private nonprofit organization carrying out a program receiving assistance under this subsection shall consult with appropriate agencies that serve or assist individuals with disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals, located in the jurisdiction served by the program.

"(6) COORDINATION.—The Commissioner shall provide coordination and technical assistance by grant or cooperative agreement for establishing, developing, and coordinating the training and information programs. To the extent practicable, such assistance shall be provided by the parent training and information centers established under section 631 of the Individuals with Disabilities Education Act (20 U.S.C. 1431).

"(7) REVIEW.—

"(A) QUARTERLY REVIEW.—The board of directors or special governing committee of a nonprofit private organization receiving a grant under this subsection shall meet at least once in each calendar quarter to review the training and information program, and each such committee shall directly advise the governing board regarding the views and recommendations of the committee.

"(B) REVIEW FOR GRANT RENEWAL.—If a nonprofit private organization requests the renewal of a grant under this subsection, the board of directors or the special governing committee shall prepare and submit to the Commissioner a written review of the training and information program conducted by the nonprofit private organization during the preceding fiscal year.

"(d) TRAINING REGARDING IMPARTIAL HEARING OFFICERS.—The Commissioner may award grants to public or nonprofit agencies and organizations to provide training designed to provide impartial hearing officers with the skills necessary to fairly decide appeals under this Act.

"(e) RECRUITMENT AND RETENTION OF URBAN PERSONNEL.—The Commissioner may award grants to public or nonprofit agencies and organizations to develop and demonstrate innovative methods to attract and retain professionals to serve in urban areas in the rehabilitation of individuals with disabilities, including individuals with severe disabilities.

"(f) CERTAIN REQUIREMENTS.—The requirements of subsections (a) (except the first sentence), (b), and (c), of section 302, and paragraphs (1) and (2) of subsection (g) of such section, shall apply with respect to grants made available under this section, other than subsection (c). The requirements of section 306 shall apply with respect to grants made available under this section."

(b) ACCOUNT.—There shall be established an account with a distinct designated budget account identification code number in the President's budget, for activities under title VIII of the Rehabilitation Act of 1973. Funding for such activities shall be available only to such extent as is provided, or in such amounts as are provided, in appropriations Acts. Such account shall be separate and distinct from the accounts for all other activities under titles I through VII of such Act.

(c) TECHNICAL AMENDMENT.—The table of contents relating to the Act is amended by adding at the end the following:

**"TITLE VIII—SPECIAL DEMONSTRATIONS AND TRAINING PROJECTS****"Sec. 801. Authorization of appropriations.****"Sec. 802. Demonstration activities.****"Sec. 803. Training activities."****TITLE IX—AMENDMENTS TO OTHER ACTS****Subtitle A—Helen Keller National Center****SEC. 901. CONGRESSIONAL FINDINGS.**

Section 202 of the Helen Keller National Center Act (29 U.S.C. 1901) is amended—

- (1) in paragraph (2), by inserting ", the rapidly increasing number of older persons many of whom are experiencing significant losses of both vision and hearing," after "1960's"; and
- (2) in paragraph (5), by striking "invested approximately \$10,000,000" and inserting "made a substantial investment".

**SEC. 902. CONTINUED OPERATION OF CENTER.**

Section 203 of the Helen Keller National Center Act (29 U.S.C. 1902) is amended—

- (1) by striking subsection (a);
- (2) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively;
- (3) in subsection (a) (as so redesignated by paragraph (2))—
  - (A) by striking "pursuant to section 313 of the Rehabilitation Act of 1973" and inserting "prior to the date of enactment of this Act"; and
  - (B) by striking "(c)" and inserting "(b)"; and
- (4) in subsection (b) (as so redesignated by paragraph (2))—
  - (A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;
  - (B) by inserting after paragraph (1) the following new paragraph:

"(2) train family members of individuals who are deaf-blind at the Center or anywhere else in the United States, in order to assist family members in providing and obtaining appropriate services for the individual who is deaf-blind;"

**SEC. 903. AUDIT, MONITORING, AND EVALUATION.**

Section 204 of the Helen Keller National Center Act (29 U.S.C. 1903) is amended in subsection (a) by striking "at such time as the Secretary shall prescribe" and inserting "within 15 days following the completion of the audit and acceptance of the audit by the Center".

**SEC. 904. AUTHORIZATION OF APPROPRIATIONS.**

Section 205 of the Helen Keller National Center Act (29 U.S.C. 1904) is amended in subsection (a) by striking "1987 through 1992" and inserting "1993 through 1997".

**SEC. 905. DEFINITIONS.**

Section 206 of the Helen Keller National Center Act (29 U.S.C. 1905) is amended—

- (1) in paragraph (1), by striking "section 313 of the Rehabilitation Act of 1973 and continued under"; and
- (2) in paragraph (2), to read as follows:

"(2) the term 'individual who is deaf-blind' means any individual—

"(A)(i) who has a central visual acuity of 20/200 or less in the better eye with corrective lenses, or a field defect such that the peripheral diameter of visual field subtends an angular distance no greater than 20 degrees, or a progressive visual loss having a prognosis leading to one or both these conditions;

"(ii) who has a chronic hearing impairment so severe that most speech cannot be understood with optimum amplification, or a progressive hearing loss having a prognosis leading to this condition; and

"(iii) for whom the combination of impairments described in clauses (i) and (ii) cause extreme difficulty in attaining independence in daily life activities, achieving psychosocial adjustment, or obtaining a vocation;

"(B) who despite the inability to be measured accurately for hearing and vision loss due to cognitive or behavioral constraints, or both, can be determined through functional and performance assessment to have severe hearing and visual disabilities that cause extreme difficulty in attaining independence in daily life activities, achieving psychosocial adjustment, or obtaining vocational objectives; or

"(C) meets such other requirements as the Secretary may prescribe by regulation; and".

#### SEC. 906. CONSTRUCTION OF ACT, EFFECT ON AGREEMENTS.

Section 207 of the Helen Keller National Center Act (29 U.S.C. 1906) is amended by striking "Industrial Home for the Blind, Incorporated" and inserting "Helen Keller Services for the Blind, Incorporated".

Nomenclature.

#### SEC. 907. ESTABLISHMENT OF A PROGRAM.

The Helen Keller National Center Act (29 U.S.C. 1901 et seq.) is amended by adding at the end the following new section:

#### "SEC. 208. HELEN KELLER NATIONAL CENTER FEDERAL ENDOWMENT PROGRAM.

29 USC 1907.

"(a) ESTABLISHMENT.—The Secretary and the Board of Directors of the Helen Keller National Center are authorized to establish the Helen Keller National Center Federal Endowment Fund (hereafter in this section referred to as the 'Endowment Fund') in accordance with the provisions of this section, to promote the financial independence of the Helen Keller National Center. The Secretary and the Board may enter into such agreements as may be necessary to carry out the purposes of this section.

#### "(b) FEDERAL PAYMENTS.—

"(1) IN GENERAL.—The Secretary shall make payments to the Endowment Fund from amounts appropriated pursuant to subsection (h), consistent with the provisions of this section.

"(2) AMOUNT OF PAYMENT.—Subject to the availability of appropriations, the Secretary shall make payments to the Endowment Fund in amounts equal to sums contributed to the Endowment Fund from non-Federal sources (excluding transfers from other endowment funds of the Center).

#### "(c) INVESTMENTS.—

"(1) IN GENERAL.—The Center, in investing the Endowment Fund corpus and income, shall exercise the judgment and care, under the prevailing circumstances, which a person of prudence,



discretion, and intelligence would exercise in the management of that person's own business affairs.

**"(2) LIMITATIONS.—**

**"(A) FEDERALLY INSURED INVESTMENTS AND OTHER INVESTMENTS.—**The Endowment Fund corpus and income shall be invested in federally insured bank savings accounts or comparable interest bearing accounts, certificates of deposit, money market funds, mutual funds, obligations of the United States, or other low-risk instruments and securities in which a regulated insurance company may invest under the laws of the State of New York.

**"(B) REAL ESTATE.—**The Endowment Fund corpus and income may not be invested in real estate.

**"(C) CONFLICT OF INTEREST.—**The Endowment Fund corpus or income may not be invested in instruments or securities issued by an organization in which an executive officer is a controlling shareholder, director, or owner within the meaning of Federal securities laws and other applicable laws.

**"(D) ENCUMBRANCES.—**The Center may not assign, hypothecate, encumber, or create a lien on the Endowment Fund corpus without specific written authorization of the Secretary.

**"(d) WITHDRAWALS AND EXPENDITURES.—**

**"(1) IN GENERAL.—**For a 20-year period following the receipt of a payment under this section, the Center shall not withdraw or expend the Federal payment or matching contribution made to the Endowment Fund corpus. On the expiration of such period, the Center may use the Endowment Fund corpus plus any of the Endowment Fund income for any purpose that benefits individuals who are deaf-blind.

**"(2) OPERATIONAL AND COMMERCIAL EXPENSES.—**

**"(A) IN GENERAL.—**The Helen Keller National Center may withdraw or expend the Endowment Fund income for any expenses necessary for the operation of the Center, including expenses of operations and maintenance, administration, academic and support personnel, construction and renovation, community and client services programs, technical assistance, and research.

**"(B) LIMITATION.—**The Center may not withdraw or expend the Endowment Fund income for any commercial purpose.

**"(3) LIMITATIONS AND WAIVER OF LIMITATIONS.—**

**"(A) IN GENERAL.—**Except as provided in subparagraph (B), the Center shall not withdraw or expend more than 50 percent of the total aggregate Endowment Fund income earned prior to the time of withdrawal or expenditure.

**"(B) EXCEPTION.—**The Secretary may permit the Center to withdraw or expend more than 50 percent of its total aggregate endowment income where the Center demonstrates to the Secretary's satisfaction that such withdrawal or expenditure is necessary because of—

**"(i)** a financial emergency, such as a pending insolvency or temporary liquidity problem;

**"(ii)** a life-threatening situation occasioned by a natural disaster or arson; or

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"(iii) another unusual occurrence or exigent circumstance.

**"(e) REPORTING REQUIREMENTS.—**

**"(1) FINANCIAL RECORDS.—**The Helen Keller National Center shall keep accurate financial records relating to the operation of the Endowment Fund.

**"(2) AUDIT AND REPORT.—**

**"(A) AUDIT.—**The Center shall arrange for the conduct of an annual financial and compliance audit of the Endowment Fund in the manner prescribed by the Secretary pursuant to section 204(a) (29 U.S.C. 1903(a)).

**"(B) REPORT.—**The Center shall submit a copy of the report on the audit required under subparagraph (A) to the Secretary within 15 days after completion of the audit and acceptance of the audit by the Center.

**"(3) ANNUAL REPORT.—**Not later than 60 days after the end of each fiscal year, the Center shall provide to the Secretary an annual report on the uses of funds provided by the Federal endowment program authorized under this section. Such report shall contain such information, and be in such form as the Secretary may require.

**"(f) RECOVERY OF PAYMENTS.—**After notice and an opportunity for a hearing, the Secretary is authorized to recover any Federal payments made under this section if the Helen Keller National Center—

**"(1)** makes a withdrawal or expenditure from the Endowment Fund corpus or income which is not consistent with the provisions of this section;

**"(2)** fails to comply with the investment standards and limitations under this section; or

**"(3)** fails to account properly to the Secretary concerning the investment of or expenditures from the Endowment Fund corpus or income.

**"(g) DEFINITIONS.—**For the purposes of this section:

**"(1) ENDOWMENT FUND.—**The term 'endowment fund' means a fund, or a tax-exempt foundation, established and maintained by the Helen Keller National Center for the purpose of generating income for the support of the Center.

**"(2) ENDOWMENT FUND CORPUS.—**The term 'Endowment Fund corpus' means an amount equal to the Federal payments made to the Endowment Fund and amounts contributed to the Endowment Fund from non-Federal sources.

**"(3) ENDOWMENT FUND INCOME.—**The term 'Endowment Fund income' means an amount equal to the total market value of the Endowment Fund minus the Endowment Fund corpus.

**"(h) AUTHORIZATION OF APPROPRIATIONS.—**There are authorized to be appropriated to carry out this section, such sums as may be necessary for each of the fiscal years 1993 through 1997. Such sums shall remain available until expended."

**SEC. 908. TECHNICAL AND CONFORMING AMENDMENTS.**

**(a) DEAF-BLIND INDIVIDUALS.—**Paragraphs (1) through (4) of section 202, and section 203(b)(3) (as so redesignated by paragraphs (2) and (4)(A) of section 902), of the Helen Keller National Center Act (29 U.S.C. 1901 and 1902(b)(3)) are amended by striking "deaf-

blind individuals" each place the term appears and inserting "individuals who are deaf-blind".

(b) DEAF-BLIND INDIVIDUAL.—Section 203(b)(1) of such Act (29 U.S.C. 1902(b)(1)) (as so redesignated by section 902(2)) is amended by striking "deaf-blind individual" and inserting "individual who is deaf-blind".

(c) DEAF-BLIND YOUTHS AND ADULTS.—

Nomenclature.

(1) Sections 202(4), 203(a) (as so redesignated by section 902(2)), and 206(1) of such Act (29 U.S.C. 1901(4), 1902(a), and 1905(1)) are amended by striking "Deaf-Blind Youths and Adults" each place the term appears and inserting "Youths and Adults who are Deaf-Blind".

(2) Section 203 of such Act (29 U.S.C. 1902) is amended in the section heading by striking "DEAF-BLIND YOUTHS AND ADULTS" and inserting "YOUTHS AND ADULTS WHO ARE DEAF-BLIND".

## Subtitle B—Other Programs

### SEC. 911. COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED.

Nomenclature.

(a) WAGNER-O'DAY ACT.—Section 1 of the Act entitled "An Act to Create a Committee on Purchases of Blind-made Products, and for other purposes", approved June 25, 1938 (commonly known as the Wagner-O'Day Act; 41 U.S.C. 46) is amended by striking "from the Blind and Other Severely Handicapped" and inserting "From People Who Are Blind and Severely Disabled".

(b) SMALL BUSINESS ACT.—Section 15(c)(1)(A) of the Small Business Act (15 U.S.C. 644(c)(1)(A)) is amended by striking "from the Blind and Other Severely Handicapped" and inserting "From People Who Are Blind or Severely Disabled".

### SEC. 912. INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

(a) TRAINING OR RETRAINING.—Section 631(a) of the Individuals with Disabilities Education Act (20 U.S.C. 1431(a)) is amended by adding at the end thereof the following new paragraph:

"(8) In making grants under paragraph (1), the Secretary may provide for the training or retraining of regular education teachers who are involved in providing instruction to individuals who are deaf, but who are not certified as teachers of such individuals, to meet the communications needs of such individuals."

(b) NOTICE.—

(1) IN GENERAL.—Within 90 days after the date of enactment of this Act, the Secretary of Education shall issue a Notice of Inquiry concerning the definition of the term "serious emotional disturbance" as used in the Individuals with Disabilities Education Act.

(2) PUBLIC COMMENT.—The Secretary of Education shall provide a public comment period of at least 90 days and shall request and consider—

(A) comments from the public on the need to revise the definition of the term in the regulations implementing such Act; and

(B) comments from the public on whether the term as used in such Act should be changed and on whether the substitution of the term "emotional and behavioral

disorders" would be appropriate, or whether some other term should be used.

(3) **DEFINITION.**—The Notice of Inquiry shall contain the following proposed definition for use in the regulations implementing such Act:

"(1) As used in section 602(a)(1) of the Individuals with Disabilities Education Act (20 U.S.C. 1401(a)(1)):

"(A) The term 'serious emotional disturbance' means a disability that is—

"(i) characterized by behavioral or emotional response in school programs so different from appropriate age, cultural, or ethnic norms that the responses adversely affect educational performance, including academic, social, vocational or personal skills;

"(ii) more than a temporary, expected response to stressful events in the environment;

"(iii) consistently exhibited in two different settings, at least one of which is school-related; and

"(iv) unresponsive to direct intervention applied in general education, or the condition of a child is such that general education interventions would be insufficient.

"(B) The term includes such a disability that co-exists with other disabilities.

"(C) The term includes a schizophrenic disorder, affective disorder, anxiety disorder, or other sustained disorder of conduct or adjustment, affecting a child, if the disorder affects educational performance as described in paragraph (1).

"(2) The term 'seriously emotionally disturbed' means, with respect to a child, that the child has a serious emotional disturbance."

(4) **REPORT.**—The Secretary shall, within 10 months after the date of enactment of this Act, prepare a report containing a summary of the public comments described in paragraph (2)(B) received as a result of the Notice of Inquiry, and recommendations concerning whether such Act should be amended. The report shall be submitted to the appropriate committees of Congress, including the Subcommittee on Select Education of the Committee on Education and Labor of the House of Representatives, and the Subcommittee on Disability Policy of the Committee on Labor and Human Resources of the Senate.

**SEC. 913. TECHNOLOGY-RELATED ASSISTANCE FOR INDIVIDUALS WITH DISABILITIES ACT OF 1988.**

The Technology-Related Assistance for Individuals With Disabilities Act of 1988 is amended—

(1) in section 221(a)(1) (29 U.S.C. 2251(a)(1)), by striking "nonprofit or for-profit entities" and inserting "public or private agencies and organizations, including institutions of higher education,";

(2) in section 222(a) (29 U.S.C. 2252(a)), by striking "non-profit and for-profit entities" and inserting "public or private agencies and organizations, including institutions of higher education,"; and

(3) in section 231(a) (29 U.S.C. 2252(a)), by striking "non-profit and for-profit entities" and inserting "public or private

29 USC 2261.

agencies and organizations, including institutions of higher education.”.

**SEC. 914. PRESIDENT'S COMMITTEE ON EMPLOYMENT OF PEOPLE WITH DISABILITIES.**

The Joint Resolution entitled “Joint Resolution authorizing an appropriation for the work of the President's Committee on National Employ the Physically Handicapped Week”, approved July 11, 1949 (36 U.S.C. 155a) is amended—

(1) by striking “handicapped persons” and inserting “persons with disabilities”;

(2) by striking “the handicapped” and inserting “such persons”;

(3) by striking “for each of the fiscal years 1987, 1988, 1989, 1990, and 1991,” and inserting “for each of the fiscal years 1993, 1994, 1995, 1996, and 1997,”; and

(4) by striking “The President's Committee on Employment of the Handicapped shall be guided by the general policies of the National Council on the Handicapped.”.

Approved October 29, 1992.

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**LEGISLATIVE HISTORY—H.R. 5482 (S. 3065):**

**HOUSE REPORTS:** Nos. 102-822 (Comm. on Education and Labor) and 102-973 (Comm. of Conference).

**SENATE REPORTS:** No. 102-357 accompanying S. 3065 (Comm. on Labor and Human Resources).

**CONGRESSIONAL RECORD**, Vol. 138 (1992):

Aug. 10, considered and passed House.

Aug. 11, S. 3065 considered and passed Senate.

Aug. 12, H.R. 5482 considered and passed Senate, amended.

Oct. 2, House agreed to conference report.

Oct. 5, Senate agreed to conference report.

**WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS**, Vol. 28 (1992):

Oct. 29, Presidential statement.

Public Law 102-570  
102d Congress

An Act

To authorize the Secretary of the Interior to construct and operate an interpretive center for the Ridgefield National Wildlife Refuge in Clark County, Washington.

Oct. 29, 1992  
[H.R. 5809]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Conservation.

**SECTION 1. INTERPRETIVE CENTER FOR THE RIDGEFIELD NATIONAL WILDLIFE REFUGE.**

16 USC 668d  
note.

(a) FINDINGS.—The Congress finds the following:

(1) The Ridgefield National Wildlife Refuge (in this Act referred to as the "Refuge"), located on the Columbia River in southwest Washington, provides unique opportunities for observing and interpreting the biological richness of the lower Columbia River wetlands.

(2) The Refuge is also rich in the cultural history of the Pacific Northwest, including being the site of a large Native American settlement which was visited by the 1804 Lewis and Clark Expedition and other early explorers.

(3) The Refuge is located in close proximity to the Portland/Vancouver metropolitan area and to the Interstate 5 freeway, which carries millions of visitors past the Refuge to Mount St. Helens, Mount Hood, the Columbia River Gorge, wilderness areas, and other natural attractions.

(4) The Refuge is ideally suited to be a regional center for interpretation, research, and education related to wetland ecology, wildlife, the environmental sciences, and Northwest cultural history.

(5) There are unique opportunities for the Federal Government to engage in cost-sharing with local, State, and private partners to construct, operate, and maintain a regional interpretive center at the Refuge.

(b) AUTHORITY TO CONSTRUCT AND OPERATE INTERPRETIVE CENTER.—

(1) IN GENERAL.—The Secretary of the Interior may, subject to the availability of appropriations, construct and operate an interpretive center at the Ridgefield National Wildlife Refuge in Clark County, Washington, for the following purposes:

(A) Providing public opportunities, facilities, and resources to study natural history, Native American culture, and the history of Northwest settlers in the region of the Refuge.

(B) Offering a variety of environmental educational programs and interpretive exhibits.

(C) Fostering an awareness and understanding of the interactions among wildlife, wetland ecosystems, and human activities.

(D) Providing office space and facilities for Refuge administration, research, education, and related activities.

(2) **DESIGN.**—The Secretary of the Interior shall ensure that the design, size, and location of any facilities for an interpretive center constructed under this section are consistent with the cultural and natural history of the area with which the interpretive center will be concerned.

(c) **COST SHARING.**—The Secretary of the Interior may accept contributions of funds from non-Federal sources to pay the costs of constructing, operating, and maintaining an interpretive center under this section, and shall take appropriate steps to seek to obtain such contributions.

(d) **PUBLIC PROCESS.**—Not later than 1 year after the date of the enactment of this Act, the Director of the United States Fish and Wildlife Service shall engage in a public process to determine—

(1) the design of an interpretive center to be constructed under this section;

(2) opportunities for obtaining contributions of funds for the interpretive center;

(3) the costs of constructing, operating, and maintaining, the interpretive center and associated facilities; and

(4) the functions of the interpretive center, with an emphasis on educational functions.

(e) **REPORT.**—Not later than 1 year after the date of the enactment of this Act, the Secretary of the Interior shall submit a report to the Congress on progress made in designing and constructing an interpretive center under this section, on including steps taken under subsection (c) to obtain contributions and any such contributions that have been pledged to or received by the United States.

## **SEC. 2. ADDITIONAL MEMBERS OF TASK FORCE.**

Section 4 of the Klamath River Basin Fishery Resources Restoration Act (16 U.S.C. 460ss-3) is amended by adding at the end the following:

“(j) At such time as the program is expanded to include portions of the Klamath River upstream from the Iron Gate dam, membership on the Task Force shall be increased to include the following—

“(1) One individual who shall be appointed by the Commissioners of Klamath County, Oregon.

“(2) A representative of the Klamath Tribe, who shall be appointed by the governing body of the Tribe.”.

Approved October 29, 1992.

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### **LEGISLATIVE HISTORY—H.R. 5809:**

HOUSE REPORTS: No. 102-928 (Comm. on Merchant Marine and Fisheries).

CONGRESSIONAL RECORD, Vol. 138 (1992):

Sept. 29, considered and passed House.

Oct. 7, considered and passed Senate.

Public Law 102-571  
102d Congress

An Act

To amend the Federal Food, Drug, and Cosmetic Act to authorize human drug application, prescription drug establishment, and prescription drug product fees and for other purposes.

Oct. 29, 1992  
[H.R. 6181]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

## TITLE I—USER FEES

### SEC. 101. SHORT TITLE AND REFERENCE.

(a) **SHORT TITLE.**—This title may be cited as the “Prescription Drug User Fee Act of 1992”.

(b) **REFERENCE.**—Whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act.

### SEC. 102. FINDINGS.

The Congress finds that—

(1) prompt approval of safe and effective new drugs is critical to the improvement of the public health so that patients may enjoy the benefits provided by these therapies to treat and prevent illness and disease;

(2) the public health will be served by making additional funds available for the purpose of augmenting the resources of the Food and Drug Administration that are devoted to the process for review of human drug applications; and

(3) the fees authorized by this title will be dedicated toward expediting the review of human drug applications as set forth in the goals identified in the letters of September 14, 1992, and September 21, 1992, from the Commissioner of Food and Drugs to the Chairman of the Energy and Commerce Committee of the House of Representatives and the Chairman of the Labor and Human Resources Committee of the Senate, as set forth at 138 Cong. Rec. H9099–H9100 (daily ed. September 22, 1992).

### SEC. 103. FEES RELATING TO DRUGS.

Chapter VII, as amended by section 106, is amended by adding at the end of subchapter C the following:

## “PART 2—FEES RELATING TO DRUGS

### “SEC. 735. DEFINITIONS.

“For purposes of this subchapter:

“(1) The term ‘human drug application’ means an application for—

Prescription  
Drug User  
Fee Act of  
1992.  
21 USC 301  
note.

21 USC 379g  
note.

21 USC 379g.



“(A) approval of a new drug submitted under section 505(b)(1),

“(B) approval of a new drug submitted under section 505(b)(2) after September 30, 1992, which requests approval of—

“(i) a molecular entity which is an active ingredient (including any salt or ester of an active ingredient), or

“(ii) an indication for a use, that had not been approved under an application submitted under section 505(b),

“(C) initial certification or initial approval of an anti-biotic drug under section 507, or

“(D) licensure of a biological product under section 351 of the Public Health Service Act.

Such term does not include a supplement to such an application, does not include an application with respect to whole blood or a blood component for transfusion, does not include an application with respect to a bovine blood product for topical application licensed before September 1, 1992, an allergenic extract product, or an in vitro diagnostic biologic product licensed under section 351 of the Public Health Service Act, and does not include an application with respect to a large volume parenteral drug product approved before September 1, 1992.

“(2) The term ‘supplement’ means a request to the Secretary to approve a change in a human drug application which has been approved.

“(3) The term ‘prescription drug product’ means a specific strength or potency of a drug in final dosage form—

“(A) for which a human drug application has been approved, and

“(B) which may be dispensed only under prescription pursuant to section 503(b).

Such term does not include whole blood or a blood component for transfusion, does not include a bovine blood product for topical application licensed before September 1, 1992, an allergenic extract product, or an in vitro diagnostic biologic product licensed under section 351 of the Public Health Service Act, and does not include a large volume parenteral drug product approved before September 1, 1992.

“(4) The term ‘final dosage form’ means, with respect to a prescription drug product, a finished dosage form which is approved for administration to a patient without further manufacturing.

“(5) The term ‘prescription drug establishment’ means a foreign or domestic place of business which is—

“(A) at one general physical location consisting of one or more buildings all of which are within 5 miles of each other, at which one or more prescription drug products are manufactured in final dosage form, and

“(B) under the management of a person that is listed as the applicant in a human drug application for a prescription drug product with respect to at least one such product.

For purposes of this paragraph, the term ‘manufactured’ does not include packaging.

"(6) The term 'process for the review of human drug applications' means the following activities of the Secretary with respect to the review of human drug applications and supplements:

"(A) The activities necessary for the review of human drug applications and supplements.

"(B) The issuance of action letters which approve human drug applications or which set forth in detail the specific deficiencies in such applications and, where appropriate, the actions necessary to place such applications in condition for approval.

"(C) The inspection of prescription drug establishments and other facilities undertaken as part of the Secretary's review of pending human drug applications and supplements.

"(D) Activities necessary for the review of applications for licensure of establishments subject to section 351 of the Public Health Service Act and for the release of lots of biologics under such section.

"(E) Monitoring of research conducted in connection with the review of human drug applications.

"(7) The term 'costs of resources allocated for the process for the review of human drug applications' means the expenses incurred in connection with the process for the review of human drug applications for—

"(A) officers and employees of the Food and Drug Administration, employees under contract with the Food and Drug Administration who work in facilities owned or leased for the Food and Drug Administration, advisory committees, and costs related to such officers, employees, and committees,

"(B) management of information, and the acquisition, maintenance, and repair of computer resources,

"(C) leasing, maintenance, renovation, and repair of facilities and acquisition, maintenance, and repair of fixtures, furniture, scientific equipment, and other necessary materials and supplies, and

"(D) collecting fees under section 736 and accounting for resources allocated for the review of human drug applications and supplements.

"(8) The term 'adjustment factor' applicable to a fiscal year is the lower of—

"(A) the Consumer Price Index for all urban consumers (all items; United States city average) for August of the preceding fiscal year divided by such Index for August 1992, or

"(B) the total of discretionary budget authority provided for programs in the domestic category for the immediately preceding fiscal year (as reported in the Office of Management and Budget sequestration preview report, if available, required under section 254(d) of the Balanced Budget and Emergency Deficit Control Act of 1985) divided by such budget authority for fiscal year 1992 (as reported in the Office of Management and Budget final sequestration report submitted after the end of the 102d Congress, 2d Session).

The terms 'budget authority' and 'category' in subparagraph (B) are as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as in effect as of September 1, 1992.

21 USC 379h.

**"SEC. 736. AUTHORITY TO ASSESS AND USE DRUG FEES.**

**"(a) TYPES OF FEES.**—Beginning in fiscal year 1993, the Secretary shall assess and collect fees in accordance with this section as follows:

**"(1) HUMAN DRUG APPLICATION AND SUPPLEMENT FEE.**—

**"(A) IN GENERAL.**—Each person that submits, on or after September 1, 1992, a human drug application or a supplement shall be subject to a fee as follows:

**"(i)** A fee established in subsection (b) for a human drug application for which clinical data (other than bioavailability or bioequivalence studies) with respect to safety or effectiveness are required for approval.

**"(ii)** A fee established in subsection (b) for a human drug application for which clinical data with respect to safety or effectiveness are not required or a supplement for which clinical data (other than bioavailability or bioequivalence studies) with respect to safety or effectiveness are required.

**"(B) PAYMENT SCHEDULE.**—

**"(i) FIRST PAYMENT.**—50 percent of the fee required by subparagraph (A) shall be due upon submission of the application or supplement.

**"(ii) FINAL PAYMENT.**—The remaining 50 percent of the fee required by subparagraph (A) shall be due upon—

**"(I)** the expiration of 30 days from the date the Secretary sends to the applicant a letter designated by the Secretary as an action letter described in section 735(6)(B), or

**"(II)** the withdrawal of the application or supplement after it is filed unless the Secretary waives the fee or a portion of the fee because no substantial work was performed on such application or supplement after it was filed.

The designation under subclause (I) or the waiver under subclause (II) shall be solely in the discretion of the Secretary and shall not be reviewable.

**"(C) EXCEPTION FOR PREVIOUSLY FILED APPLICATION OR SUPPLEMENT.**—If a human drug application or supplement was submitted by a person that paid the fee for such application or supplement, was accepted for filing, and was not approved or was withdrawn (without a waiver), the submission of a human drug application or a supplement for the same product by the same person (or the person's licensee, assignee, or successor) shall not be subject to a fee under subparagraph (A).

**"(D) REFUND OF FEE IF APPLICATION NOT ACCEPTED FOR FILING.**—The Secretary shall refund 50 percent of the fee paid under subparagraph (B)(i) for any application or supplement which is not accepted for filing.

**"(2) PRESCRIPTION DRUG ESTABLISHMENT FEE.**—Each person that—

“(A) owns a prescription drug establishment, at which is manufactured at least 1 prescription drug product which is not the, or not the same as a, product approved under an application filed under section 505(b)(2) or 505(j), and

“(B) after September 1, 1992, had pending before the Secretary a human drug application or supplement, shall be subject to the annual fee established in subsection (b) for each such establishment, payable on or before January 31 of each year.

“(3) PRESCRIPTION DRUG PRODUCT FEE.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), each person—

“(i) who is named as the applicant in a human drug application for a prescription drug product which is listed under section 510, and

“(ii) who, after September 1, 1992, had pending before the Secretary a human drug application or supplement,

shall pay for each such prescription drug product the annual fee established in subsection (b). Such fee shall be payable at the time of the first such listing of such product in each calendar year. Such fee shall be paid only once each year for each listed prescription drug product irrespective of the number of times such product is listed under section 510.

“(B) EXCEPTION.—The listing of a prescription drug product under section 510 shall not require the person who listed such product to pay the fee prescribed by subparagraph (A) if such product is the same product as a product approved under an application filed under section 505(b)(2) or 505(j).

“(b) FEE AMOUNTS.—

“(1) SCHEDULE.—Except as provided in paragraph (2) and subsections (c), (d), (f), and (g), the fees required under subsection (a) shall be paid in accordance with the following schedule:

	Fiscal Year 1993	Fiscal Year 1994	Fiscal Year 1995	Fiscal Year 1996	Fiscal Year 1997
Drug application fee:					
Subsection					
(a)(1)(A)(i) fee .....	\$100,000	\$150,000	\$208,000	\$217,000	\$233,000
Subsection					
(a)(1)(A)(ii) fee .....	\$50,000	\$75,000	\$104,000	\$108,000	\$116,000
Fee revenue .....	\$12,000,000	\$18,000,000	\$25,000,000	\$26,000,000	\$28,000,000
Annual establishment fee:					
Fee per establishment .....	\$60,000	\$88,000	\$126,000	\$131,000	\$138,000
Fee revenue .....	\$12,000,000	\$18,000,000	\$25,000,000	\$26,000,000	\$28,000,000
Annual product fee:					
Fee per product .....	\$6,000	\$9,000	\$12,500	\$13,000	\$14,000
Fee revenue .....	\$12,000,000	\$18,000,000	\$25,000,000	\$26,000,000	\$28,000,000
Total fee revenues .....	\$36,000,000	\$54,000,000	\$75,000,000	\$78,000,000	\$84,000,000

“(2) SMALL BUSINESS EXCEPTION.—Any business which has fewer than 500 employees, including employees of affiliates, and which does not have a prescription drug product introduced

or delivered for introduction into interstate commerce shall pay one-half the amount of the fee for human drug applications it submits and shall pay the entire amount of the fee for supplements it submits. Such a business shall not be required to pay any portion of any fee required under subsection (a)(1)(A) until 1 year after the date of the submission of the application involved. For purposes of this paragraph, one business is an affiliate of another business when, directly or indirectly, one business controls, or has the power to control, the other business or a third party controls, or has the power to control, both businesses.

**"(c) INCREASES AND ADJUSTMENTS.—**

Federal  
Register,  
publication.

**"(1) REVENUE INCREASE.—**The total fee revenues established by the schedule in subsection (b)(1) shall be increased by the Secretary by notice, published in the Federal Register, for a fiscal year to reflect the greater of—

**"(A)** the total percentage increase that occurred during the preceding fiscal year in the Consumer Price Index for all urban consumers (all items; U.S. city average), or

**"(B)** the total percentage increase for such fiscal year in basic pay under the General Schedule in accordance with section 5332 of title 5, United States Code, as adjusted by any locality-based comparability payment pursuant to section 5304 of such title for Federal employees stationed in the District of Columbia.

**"(2) ANNUAL FEE ADJUSTMENT.—**Subject to the amount appropriated for a fiscal year under subsection (g), the Secretary shall, within 60 days after the end of each fiscal year beginning after October 1, 1992, adjust the fees established by the schedule in subsection (b)(1) for the following fiscal year to achieve the total fee revenues, as may be increased under paragraph (1). Such fees shall be adjusted under this paragraph to maintain the proportions established in such schedule.

**"(3) LIMIT.—**The total amount of fees charged, as adjusted under paragraph (2), for a fiscal year may not exceed the total costs for such fiscal year for the resources allocated for the process for the review of human drug applications.

**"(d) FEE WAIVER OR REDUCTION.—**The Secretary shall grant a waiver from or a reduction of 1 or more fees under subsection (a) where the Secretary finds that—

**"(1)** such waiver or reduction is necessary to protect the public health,

**"(2)** the assessment of the fee would present a significant barrier to innovation because of limited resources available to such person or other circumstances,

**"(3)** the fees to be paid by such person will exceed the anticipated present and future costs incurred by the Secretary in conducting the process for the review of human drug applications for such person, or

**"(4)** assessment of the fee for an application or a supplement filed under section 505(b)(1) pertaining to a drug containing an active ingredient would be inequitable because an application for a product containing the same active ingredient filed by another person under section 505(b)(2) could not be assessed fees under subsection (a)(1).

In making the finding in paragraph (3), the Secretary may use standard costs.

"(e) **EFFECT OF FAILURE TO PAY FEES.**—A human drug application or supplement submitted by a person subject to fees under subsection (a) shall be considered incomplete and shall not be accepted for filing by the Secretary until all fees owed by such person have been paid.

"(f) **ASSESSMENT OF FEES.**—

"(1) **LIMITATION.**—Fees may not be assessed under subsection (a) for a fiscal year beginning after fiscal year 1993 unless appropriations for salaries and expenses of the Food and Drug Administration for such fiscal year (excluding the amount of fees appropriated for such fiscal year) are equal to or greater than the amount of appropriations for the salaries and expenses of the Food and Drug Administration for the fiscal year 1992 multiplied by the adjustment factor applicable to the fiscal year involved.

"(2) **AUTHORITY.**—If the Secretary does not assess fees under subsection (a) during any portion of a fiscal year because of paragraph (1) and if at a later date in such fiscal year the Secretary may assess such fees, the Secretary may assess and collect such fees, without any modification in the rate, for human drug applications and supplements, prescription drug establishments, and prescription drug products at any time in such fiscal year notwithstanding the provisions of subsection (a) relating to the date fees are to be paid.

"(g) **CREDITING AND AVAILABILITY OF FEES.**—

"(1) **IN GENERAL.**—Fees collected for a fiscal year pursuant to subsection (a) shall be credited to the appropriation account for salaries and expenses of the Food and Drug Administration and shall be available in accordance with appropriation Acts until expended without fiscal year limitation.

"(2) **COLLECTIONS AND APPROPRIATION ACTS.**—The fees authorized by this section—

"(A) shall be collected in each fiscal year in an amount equal to the amount specified in appropriation Acts for such fiscal year, and

"(B) shall only be collected and available to defray increases in the costs of the resources allocated for the process for the review of human drug applications (including increases in such costs for an additional number of full-time equivalent positions in the Department of Health and Human Services to be engaged in such process) over such costs for fiscal year 1992 multiplied by the adjustment factor.

"(3) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated for fees under this section—

"(A) \$36,000,000 for fiscal year 1993,

"(B) \$54,000,000 for fiscal year 1994,

"(C) \$75,000,000 for fiscal year 1995,

"(D) \$78,000,000 for fiscal year 1996, and

"(E) \$84,000,000 for fiscal year 1997,

as adjusted to reflect increases in the total fee revenues made under subsection (c)(1).

"(h) **COLLECTION OF UNPAID FEES.**—In any case where the Secretary does not receive payment of a fee assessed under subsection (a) within 30 days after it is due, such fee shall be treated as a claim of the United States Government subject to subchapter II of chapter 37 of title 31, United States Code.

“(i) CONSTRUCTION.—This section may not be construed to require that the number of full-time equivalent positions in the Department of Health and Human Services, for officers, employers, and advisory committees not engaged in the process of the review of human drug applications, be reduced to offset the number of officers, employees, and advisory committees so engaged.”.

21 USC 379g  
note.

#### SEC. 104. ANNUAL REPORTS.

(a) FIRST REPORT.—Within 60 days after the end of each fiscal year during which fees are collected under part 2 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act, the Secretary of Health and Human Services shall submit a report stating the Food and Drug Administration's progress in achieving the goals identified in section 102(3) of this Act during such fiscal year and that agency's future plans for meeting such goals.

(b) SECOND REPORT.—Within 120 days after the end of each fiscal year during which such fees are collected, the Secretary of Health and Human Services shall submit a report on the implementation of the authority for such fees during such fiscal year and on the use the Food and Drug Administration made of the fees collected during such fiscal year for which the report is made.

(c) COMMITTEES.—The reports described in subsections (a) and (b) shall be submitted to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

21 USC 379g  
note.

#### SEC. 105. SUNSET.

The amendments made by section 103 shall not be in effect after October 1, 1997 and section 104 shall not be in effect after 120 days after such date.

#### SEC. 106. CONFORMING AMENDMENTS TO CHAPTER VII

Chapter VII is amended—

(1) by striking out in the chapter heading “ADMINISTRATIVE PROVISIONS” and inserting in lieu thereof “AUTHORITY”,

(2) by inserting before the section heading for section 701 the following:

“SUBCHAPTER A—GENERAL ADMINISTRATIVE PROVISIONS”,

(3) by redesignating section 702A (21 U.S.C. 372a) as section 706 and by inserting it after section 705 (21 U.S.C. 375) and by redesignating section 712 (21 U.S.C. 379d) as section 711,

(4) by moving section 706 (21 U.S.C. 376), as in effect on the date of the enactment of this Act, to the end of chapter VII, by redesignating the section as section 721, and by inserting before the section heading for the section the following:

“SUBCHAPTER B—COLORS”,

(5) by inserting after section 721 (as so redesignated) the following:

21 USC 379a,  
376.

21 USC 376,  
379e.

## "SUBCHAPTER C—FEES

**"PART 1—FREEDOM OF INFORMATION FEES",  
and**

(6) by inserting section 711 (21 U.S.C. 379c), as in effect on the date of the enactment of this Act, after the heading for part 1 of subchapter C and redesignating it as section 731.

21 USC 379c,  
379f.

**SEC. 107. GENERAL CONFORMING AMENDMENTS.**

To conform the Federal Food, Drug, and Cosmetic Act, to the amendments made to that Act by section 106(4), the following conforming amendments are made:

(1) Section 201(u) (21 U.S.C. 321(u)) is amended by striking out "706" and inserting in lieu thereof "721".

(2) Section 301(i)(1) (21 U.S.C. 331(i)(1)) is amended by striking out "706" and inserting in lieu thereof "721".

(3) Section 301(j) (21 U.S.C. 331(j)) is amended by striking out "706" and inserting in lieu thereof "721".

(4) Section 402(c) (21 U.S.C. 342(c)) is amended by striking out "706" and inserting in lieu thereof "721".

(5) Section 403(i) (21 U.S.C. 343(i)) is amended by striking out "706" and inserting in lieu thereof "721".

(6) Section 403(m) (21 U.S.C. 343(m)) is amended by striking out "706" and inserting in lieu thereof "721".

(7) Section 408(g) (21 U.S.C. 346a(g)) is amended by striking out "706" and inserting in lieu thereof "721".

(8) Section 501(a)(4) (21 U.S.C. 351(a)(4)) is amended by striking out "706" each place it occurs and inserting in lieu thereof "721".

(9) Section 502(m) (21 U.S.C. 352(m)) is amended by striking out "706" and inserting in lieu thereof "721".

(10) Section 520(g)(2)(A) (21 U.S.C. 360j(g)(2)(A)) is amended by striking out "706" and by inserting in lieu thereof "721".

(11) Section 601(e) (21 U.S.C. 361(e)) is amended by striking out "706" and inserting in lieu thereof "721".

(12) Section 602(e) (21 U.S.C. 362(e)) is amended by striking out "706" and inserting in lieu thereof "721".

(13) Section 4(g)(2)(D) of the Poultry Products Inspection Act (21 U.S.C. 453(g)(2)(D)) is amended by striking out "706" and inserting in lieu thereof "721".

(14) Section 1(m)(2)(D) of the Federal Meat Inspection Act (21 U.S.C. 601(m)(2)(D)) is amended by striking out "706" and inserting in lieu thereof "721".

(15) Section 4(a)(2)(D) of the Egg Products Inspection Act (21 U.S.C. 1033(a)(2)(D)) is amended by striking out "706" and inserting in lieu thereof "721".

(16) Section 10(b) of the Nutrition Labeling and Education Act of 1990 (21 U.S.C. 343 note) is amended—

(A) in paragraph (2)—

(i) by striking "(1) 24" and inserting "(A) 24"; and

(ii) by striking "(2) action" and inserting "(B) action";

(B) by indenting, and aligning the margins of, paragraph (2) so as to align with paragraph (1); and

21 USC 343-1  
note.



(C) by indenting, and aligning the margins of, subparagraphs (A) and (B) of paragraph (2) (as so designated by subparagraph (A)) so as to align with the subparagraphs of paragraph (1).

(17) Section 10(c)(2)(A) of the Nutrition Labeling and Education Act of 1990 (21 U.S.C. 343 note) (as amended by section 1 of the Act entitled "An Act to make Technical Amendments to the Nutrition Information and Labeling Act, and for other purposes", approved August 17, 1991 (Public Law 102-108; 105 Stat. 549) is amended by striking "706" and inserting "721".

21 USC 379g  
note.

#### **SEC. 108. ANIMAL DRUG USER FEE STUDY.**

(a) **STUDY.**—The Secretary, in consultation with manufacturers of animal drug products and other interested persons, shall undertake a study to evaluate whether, and under what conditions, to impose user fees to supplement appropriated funds in order to improve the process of reviewing applications (including abbreviated and supplemental applications) for new animal drugs under section 512 of the Federal Food, Drug, and Cosmetic Act. The study shall include—

(1) an assessment of the overall review process for animal drugs at the Center for Veterinary Medicine, including the number of applications received, and the average times for interim and final decisions on each type of application,

(2) the current allocation of funds to the animal drug review process,

(3) recommendations for goals for decision making times on applications submitted to the Center for Veterinary Medicine and for additional resources required to meet the goals, and

(4) recommendations for supplementing the resources for the animal drug review process through user fees.

(b) **COMPLETION.**—The results of the study required by subsection (a) shall be presented no later than January 4, 1994, to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

Dietary  
Supplement  
Act of 1992.

21 USC 301  
note.

## **TITLE II—DIETARY SUPPLEMENTS**

#### **SEC. 201. SHORT TITLE.**

This title may be cited as the "Dietary Supplement Act of 1992".

#### **SEC. 202. PROHIBITION.**

(a) **IN GENERAL.**—

(1) **PROHIBITION ON IMPLEMENTATION.**—Notwithstanding any other provision of law and except as provided in subsection (b) and in the amendment made by paragraph (2)(A), the Secretary of Health and Human Services may not implement the Nutrition Labeling and Education Act of 1990 (Public Law 101-535; 104 Stat. 2353), or any amendment made by such Act, earlier than December 15, 1993, with respect to dietary supplements of vitamins, minerals, herbs, or other similar nutritional substances.

(2) **FEDERAL REGULATORY ACTION.**—

21 USC 343  
note.

(A) PROPOSED REGULATIONS.—The first sentence of section 2(b)(1), and the first sentence of section 3(b)(1)(A), of the Nutrition Labeling and Education Act of 1990 (21 U.S.C. 343 note) are each amended by inserting before the period the following: “, except that the Secretary shall issue, not later than June 15, 1993, proposed regulations that are applicable to dietary supplements of vitamins, minerals, herbs, or other similar nutritional substances to implement such section”.

(B) FINAL REGULATIONS.—

(i) ISSUANCE OF FINAL REGULATIONS.—The second sentence of section 2(b)(1), and section 3(b)(1)(B), of the Nutrition Labeling and Education Act of 1990 (21 U.S.C. 343 note) are each amended by inserting before the period the following: “, except that the Secretary shall issue, not later than December 31, 1993, such a final regulation applicable to dietary supplements of vitamins, minerals, herbs, or other similar nutritional substances.”.

(ii) REGULATIONS CONSIDERED TO BE FINAL.—The first sentence of section 2(b)(2), and the first sentence of section 3(b)(2), of the Nutrition Labeling and Education Act of 1990 (21 U.S.C. 343 note) are each amended by inserting before the period the following: “, except that the proposed regulations applicable to dietary supplements of vitamins, minerals, herbs, or other similar nutritional substances shall not be considered to be final regulations until December 31, 1993”.

(C) CONSTRUCTION.—The amendments made by subparagraph (B) shall not be construed to modify the effective date of final regulations under sections 2(b) and 3(b) of the Nutrition Labeling and Education Act of 1990 (21 U.S.C. 343 note) with respect to foods that are not such dietary supplements.

21 USC 343  
note.

(3) STATE ACTION.—Section 10(a)(1)(C) of the Nutrition Labeling and Education Act of 1990 (21 U.S.C. 343 note) is amended by inserting before the comma the following: “, except that such amendments shall take effect with respect to such dietary supplements on December 31, 1993”.

(4) PREEMPTION.—Section 10(b) of the Nutrition Labeling and Education Act of 1990 (21 U.S.C. 343 note) is amended by adding at the end the following:

21 USC 343-1  
note.

“(3) REQUIREMENTS PERTAINING TO CERTAIN CLAIMS.—Notwithstanding subparagraphs (D) and (E) of paragraph (1) and except with respect to claims approved in accordance with section 202(b) of the Dietary Supplement Act of 1992, the requirements described in paragraphs (4) and (5) of section 403A(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343-1(a) (4) and (5)) that pertain to dietary supplements of vitamins, minerals, herbs, or other similar nutritional substances shall not take effect until the date final regulations take effect to implement subsection (q) or (r), as appropriate, of section 403 of such Act with respect to such dietary supplements.”.

21 USC 343  
note.

(b) HEALTH CLAIMS.—Notwithstanding section 403(r)(5)(D) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343(r)(5)(D)) and subsection (a), the Secretary of Health and Human Services

may, earlier than December 15, 1993, approve claims made with respect to dietary supplements of vitamins, minerals, herbs, or other similar nutritional substances that are claims described in clauses (vi) and (x) of section 3(b)(1)(A) of the Nutrition Labeling and Education Act of 1990 (21 U.S.C. 343 note).

21 USC 343  
note.

#### SEC. 203. UNITED STATES RECOMMENDED DAILY ALLOWANCES.

Notwithstanding any other provision of Federal law, no regulations that require the use of, or are based upon, recommended daily allowances of vitamins or minerals may be promulgated before November 8, 1993 (other than regulations establishing the United States recommended daily allowances specified at section 101.9(c)(7)(iv) of title 21, Code of Federal Regulations, as in effect on October 6, 1992, or regulations under section 403(r)(1)(A) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343(r)(1)(A)) that are based on such recommended daily allowances).

#### SEC. 204. ENFORCEMENT REPORT.

(a) CONTENTS.—The Secretary of Health and Human Services shall prepare a report containing a statement of the enforcement priorities and practices of the Food and Drug Administration under section 409 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348) with respect to dietary supplements of vitamins, minerals, herbs, or other similar nutritional substances.

(b) REPORT.—Not later than 30 days after the date of enactment of this Act, the Secretary of Health and Human Services shall submit the report described in subsection (a) to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

21 USC 393  
note.

#### SEC. 205. MANAGEMENT ACTIVITIES STUDY.

(a) STUDY.—The Comptroller General shall conduct a study of the management of activities of the Food and Drug Administration that are related to dietary supplements of vitamins, minerals, herbs, or other similar nutritional substances.

(b) CONTENTS.—In conducting the study, the Comptroller General shall examine, with respect to such activities—

(1) the means by which the Food and Drug Administration makes a determination that a substance poses a risk to public health and safety that justifies the expenditure of resources by the agency;

(2) the means by which the Food and Drug Administration makes a determination that a substance is adulterated, misbranded, or improperly manufactured;

(3) the means by which the Food and Drug Administration makes a determination relating to the quantitative management of the agency response to specific issues, in order to adjust the efforts of the agency to be commensurate with the severity of the problem addressed by the agency;

(4) the approach by which the Food and Drug Administration determines the adequacy of proof related to the risk posed by, or the safety of, a substance, and the adequacy of such approach; and

(5) the relationship between—

(A)(i) the number of hours devoted by Food and Drug Administration personnel, and the expertise of such personnel, in conducting such activities;

(ii) the cost of conducting such activities; and

(iii) the cost to manufacturers of such supplements to achieve compliance with such activities; and

(B)(i) the level of risk suspected to be posed by such supplements; and

(ii) the level of risk determined to be posed by such supplements.

(c) **APPROACH.**—In conducting the study, the Comptroller General shall analyze the current practices of the Food and Drug Administration and the practices of the agency within the 5 years prior to the date of enactment of this Act.

(d) **ANALYSIS.**—In conducting the study, the Comptroller General shall—

(1) determine the relative proportion of resources devoted to Food and Drug Administration regulatory and enforcement activities that are related to—

(A) dietary supplements of vitamins, minerals, herbs, or other similar nutritional substances;

(B) food additives that are not such dietary supplements;

(C) foods that are not such dietary supplements;

(D) drugs that are not such dietary supplements, and devices; or

(E) cosmetics; and

(2) determine, with respect to such supplements, with respect to food additives, and with respect to foods, the proportion of the resources devoted to such regulatory and enforcement activities that are used to—

(A) determine whether a substance is misbranded;

(B) determine whether an improper manufacturing practice occurred during the manufacturing of a substance;

(C) determine whether a substance is unsafe; and

(D) determine whether a substance is adulterated or otherwise in violation of the Federal Food, Drug, and Cosmetic Act (other than by making a determination described in subparagraph (A), (B), or (C)).

(e) **REPORTS.**—

(1) **INTERIM REPORT.**—

(A) **IN GENERAL.**—Not later than 6 months after the date of enactment of this Act, the Comptroller General shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate an interim report containing the findings resulting from the study and the recommendations described in subparagraph (B).

(B) **RECOMMENDATIONS.**—Such report shall include the recommendations of the Comptroller General for administrative reform, including recommendations regarding opportunities for encouraging economy and efficiency through the appropriate targeting of problems, managing resources appropriately, and making adequate determinations of risk or safety, in carrying out activities related to such supplements.

(2) **FINAL REPORT.**—

(A) **IN GENERAL.**—Not later than 12 months after the date of enactment of this Act, the Comptroller General shall prepare and submit to the Committee on Energy

and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a final report containing the findings resulting from the study and the recommendations described in subparagraph (B).

(B) RECOMMENDATIONS.—Such report shall contain the recommendations described in paragraph (1)(B).

**SEC. 206. SAFETY AND REGULATORY OUTCOMES STUDY.**

(a) SAFETY STUDY.—The Director of the Office of Technology Assessment, in cooperation with the Congressional Research Service and subject to the approval of the Technology Assessment Board, shall conduct a study of the relationship between—

(1) regulatory systems affecting the development and sale of dietary supplements of vitamins, minerals, herbs, or other similar nutritional substances; and

(2) health outcomes.

(b) CONTENTS.—

(1) IN GENERAL.—In carrying out the study, the Director of the Office of Technology Assessment shall examine the efforts of industrialized nations (including the United States) to regulate the manufacture and sale of such dietary supplements and the effect of the regulatory efforts on human health.

(2) INFORMATION.—The study shall include information regarding—

(A) whether and how other countries regulate products that are regulated as such dietary supplements in the United States;

(B) the classification systems used in regulating such products, such as systems that classify such supplements by safety, function, source, usage, dose, or other characteristics;

(C) the effect of the classification on the regulation of the supplements;

(D) how safety concerns, including safety concerns at the time of manufacture and sale of the product are addressed by the regulatory process;

(E) how deception concerns (including misbranding) are addressed by the regulatory process; and

(F) the labeling requirements, if any, for the sale of the products.

(3) ANALYSIS.—The study shall also examine—

(A) whether there are disparate rates of morbidity and mortality associated with the consumption of such dietary supplements among nations;

(B) whether particular regulatory systems may be associated with lower morbidity and mortality rates; and

(C) whether a causal relationship may be demonstrated between the regulatory system used and the health outcomes of the populations affected.

(c) **REPORT.**—The Director of the Office of Technology Assessment shall, not later than 6 months after the date on which the study is approved by the Technology Assessment Board, submit a report containing the findings of the study to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

Approved October 29, 1992.

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**LEGISLATIVE HISTORY—H.R. 6181:**

CONGRESSIONAL RECORD, Vol. 138 (1992):

Oct. 5, considered and passed House.

Oct. 7, considered and passed Senate.

Public Law 102-572  
102d Congress

An Act

Oct. 29, 1992  
[S. 1569]

To implement the recommendations of the Federal Courts Study Committee, and for other purposes.

Federal  
Courts  
Administration  
Act of 1992.  
28 USC 1  
note.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Federal Courts Administration Act of 1992".

**TITLE I—IMPLEMENTATION OF FEDERAL COURTS STUDY COMMITTEE RECOMMENDATIONS**

**SEC. 101. SUPREME COURT AUTHORITY TO PRESCRIBE RULES FOR APPEAL OF INTERLOCUTORY DECISIONS.**

Section 1292 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(e) The Supreme Court may prescribe rules, in accordance with section 2072 of this title, to provide for an appeal of an interlocutory decision to the courts of appeals that is not otherwise provided for under subsection (a), (b), (c), or (d)."

**SEC. 102. ABOLITION OF TEMPORARY EMERGENCY COURT OF APPEALS.**

(a) **APPEALS UNDER ECONOMIC STABILIZATION ACT.**—Section 211 of the Economic Stabilization Act of 1970 (Public Law 91-379; 84 Stat. 799) is amended by striking subsections (b) through (h) and inserting the following:

"(b) Appeals from orders or judgments entered by a district court of the United States in cases and controversies arising under this title shall be brought in the United States Court of Appeals for the Federal Circuit if the appeal is from a final decision of the district court or is an interlocutory appeal permitted under section 1292(c) of title 28, United States Code."

(b) **JUDICIAL REVIEW OF EMERGENCY ORDERS UNDER THE NATURAL GAS POLICY ACT.**—Section 506(c) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3416(c)) is amended—

(1) in the first sentence, by striking "the Temporary Emergency Court of Appeals, established pursuant to section 211(b) of the Economic Stabilization Act of 1970, as amended," and inserting "the United States Court of Appeals for the Federal Circuit"; and

(2) by striking "Temporary Emergency Court of Appeals" each place it appears and inserting "United States Court of Appeals for the Federal Circuit".

12 USC 1904  
note.

(c) CONFORMING AMENDMENTS.—Section 1295(a) of title 28, United States Code, is amended—

- (1) by striking “and” at the end of paragraph (9);
- (2) by striking the period at the end of paragraph (10) and inserting a semicolon; and
- (3) by adding at the end the following new paragraphs:  
“(11) of an appeal under section 211 of the Economic Stabilization Act of 1970;  
“(12) of an appeal under section 5 of the Emergency Petroleum Allocation Act of 1973;  
“(13) of an appeal under section 506(c) of the Natural Gas Policy Act of 1978; and  
“(14) of an appeal under section 523 of the Energy Policy and Conservation Act.”.

(d) ABOLITION OF COURT.—The Temporary Emergency Court of Appeals created by section 211(b) of the Economic Stabilization Act of 1970 is abolished, effective 6 months after the date of the enactment of this Act.

Effective date.  
28 USC 1295  
note.

(e) PENDING CASES.—(1) Any appeal which, before the effective date of abolition described in subsection (d), is pending in the Temporary Emergency Court of Appeals but has not been submitted to a panel of such court as of that date shall be assigned to the United States Court of Appeals for the Federal Circuit as though the appeal had originally been filed in that court.

28 USC 1295  
note.

(2) Any case which, before the effective date of abolition described in subsection (d), has been submitted to a panel of the Temporary Emergency Court of Appeals and as to which the mandate has not been issued as of that date shall remain with that panel for all purposes and, notwithstanding the provisions of sections 291 and 292 of title 28, United States Code, that panel shall be assigned to the United States Court of Appeals for the Federal Circuit for the purpose of deciding such case.

#### SEC. 103. JURISDICTION OF MAGISTRATE JUDGES TO MODIFY OR REVOKE PROBATION OR SUPERVISED RELEASE AFTER IMPRISONMENT.

Section 3401 of title 18, United States Code, is amended—

(1) in subsection (d) by striking “and to revoke or reinstate the probation of any person granted probation by him.” and inserting “and to revoke, modify, or reinstate the probation of any person granted probation by a magistrate judge.”; and

(2) by adding at the end the following new subsections:

“(h) The magistrate judge shall have power to modify, revoke, or terminate supervised release of any person sentenced to a term of supervised release by a magistrate judge.

“(i) A district judge may designate a magistrate judge to conduct hearings to modify, revoke, or terminate supervised release, including evidentiary hearings, and to submit to the judge proposed findings of fact and recommendations for such modification, revocation, or termination by the judge, including, in the case of revocation, a recommended disposition under section 3583(e) of this title. The magistrate judge shall file his or her proposed findings and recommendations.”.

#### SEC. 104. INTERCIRCUIT TRANSFERS.

Section 291(a) of title 28, United States Code, is amended to read as follows:



"(a) The Chief Justice of the United States may, in the public interest, designate and assign temporarily any circuit judge to act as circuit judge in another circuit upon request by the chief judge or circuit justice of such circuit."

## TITLE II—JUDICIAL SURVIVORS' ANNUITIES IMPROVEMENTS

Retirement.

### SEC. 201. JUDICIAL SURVIVORS' ANNUITIES AMENDMENTS.

(a) ELECTION.—Section 376(a)(1) of title 28, United States Code, is amended in the matter following subparagraph (G)—

(1) by striking "or" at the end of clause (v); and

(2) by inserting before the semicolon at the end of clause (vi) ", or (vii) the date of the enactment of the Federal Courts Administration Act of 1992".

(b) CONTRIBUTIONS.—Section 376(b) of title 28, United States Code, is amended—

(1) by inserting "(1)" after "(b)";

(2) in the first sentence by striking "including any 'retirement salary', a sum equal to 5 percent of that salary." and inserting "a sum equal to 2.2 percent of that salary, and a sum equal to 3.5 percent of his or her retirement salary. The deduction from any retirement salary—

"(A) of a justice or judge of the United States retired from regular active service who is described in section 371(b)(1) of this title,

"(B) of a justice or judge of the United States retired under section 372(a) of this title who is willing and able to perform judicial duties in accordance with section 294 of this title,

"(C) of a judge of the United States Court of Federal Claims retired under section 178 (a) or (b) of this title who meets the requirements of section 178(d) of this title, or

"(D) of a judicial official on recall under section 155(b), 797, 373(c)(4), 375, or 636(h) of this title, shall be an amount equal to 2.2 percent of retirement salary.";

(3) by redesignating all that follows the first sentence (as amended by paragraph (2) of this subsection) as paragraph (3) and inserting before such paragraph (3) the following new paragraph:

"(2) A judicial official who is not entitled to receive an immediate retirement salary upon leaving office but who is eligible to receive a deferred retirement salary on a later date shall file, within 90 days before leaving office, a written notification of his or her intention to remain within the purview of this section under such conditions and procedures as may be determined by the Director of the Administrative Office of the United States Courts. Every judicial official who files a written notification in accordance with this paragraph shall be deemed to consent to contribute, during the period before such a judicial official begins to receive his or her retirement salary, a sum equal to 3.5 percent of the deferred retirement salary which that judicial official is entitled to receive. Any judicial official who fails to file a written notification under this paragraph shall be deemed to have revoked his or her election under subsection (a) of this section."; and

(4) in paragraph (3), as redesignated by paragraph (3) of this subsection, by striking "so deducted and withheld from the salary of each such judicial official" and inserting "deducted and withheld from the salary of each judicial official under paragraphs (1) and (2) of this subsection".

(c) DEPOSITS.—Section 376(d) of title 28, United States Code, is amended—

(1) in paragraph (1) by striking "5 percent" and inserting "3.5 percent"; and

(2) in paragraph (2) by striking "5 percent" and inserting "3.5 percent".

(d) REFUND OF DEPOSITS.—Section 376(g) of title 28, United States Code, is amended to read as follows:

"(g) If any judicial official leaves office and is ineligible to receive a retirement salary or leaves office and is entitled to a deferred retirement salary but fails to make an election under subsection (b)(2) of this section, all amounts credited to his or her account established under subsection (e), together with interest at 4 percent per annum to December 31, 1947, and at 3 percent per annum thereafter, compounded on December 31 of each year, to the date of his or her relinquishment of office, minus a sum equal to 2.2 percent of salary for service while deductions were withheld under subsection (b) or for which a deposit was made by the judicial official under subsection (d), shall be returned to that judicial official in a lump-sum payment within a reasonable period of time following the date of his or her relinquishment of office. For the purposes of this section, a 'reasonable period of time' shall be presumed to be no longer than 1 year following the date upon which such judicial official relinquishes his or her office."

(e) PAYMENT OF ANNUITIES.—Section 376(h)(1) of title 28, United States Code, is amended by striking "or while receiving 'retirement salary,'" and inserting "while receiving retirement salary, or after filing an election and otherwise complying with the conditions under subsection (b)(2) of this section".

(f) CREDITABLE SERVICE.—Section 376(k) of title 28, United States Code, is amended—

(1) in paragraph (3) by striking "and" at the end;

(2) in paragraph (4) by striking the period and inserting ", and"; and

(3) by adding at the end the following new paragraph:

"(5) those years during which such judicial official had deductions withheld from his or her retirement salary in accordance with subsection (b) (1) or (2) of this section."

(g) COMPUTATION OF ANNUITY.—Section 376(l) of title 28, United States Code, is amended—

(1) in paragraph (1) by striking "(i) during those three years of such service in which his or her annual salary" and inserting "(i) during those three years of such service, or during those three years while receiving a retirement salary, in which his or her annual salary or retirement salary"; and

(2) in paragraph (1) by redesignating subparagraph (D) as subparagraph (E) and inserting after subparagraph (C) the following:

"(D) the number of years during which the judicial official had deductions withheld from his or her retirement salary under subsection (b) (1) or (2) of this section; plus".

(h) **TERMINATION.**—Section 376 of title 28, United States Code, is amended by adding at the end of that section the following new subsection:

“(v) Subject to the terms of a decree, court order, or agreement described in subsection (t)(1), if any judicial official ceases to be married after making the election under subsection (a), he or she may revoke such election in writing by notifying the Director of the Administrative Office of the United States Courts. The judicial official shall also notify any spouse or former spouse of the application for revocation in accordance with such requirements as the Director of the Administrative Office of the United States Courts shall by regulation prescribe. The Director may provide under such regulations that the notification requirement may be waived with respect to a spouse or former spouse if the judicial official establishes to the satisfaction of the Director that the whereabouts of such spouse or former spouse cannot be determined.”.

(i) **ADJUSTMENT OF CONTRIBUTION RATE.**—Section 376 of title 28, United States Code, is amended by adding at the end of that section the following new subsection:

“(w) The Comptroller General of the United States shall, at the end of each 3-fiscal year period, determine whether the contributions by judicial officials under subsection (b) during that 3-year period accounted for 50 percent of the costs of the Judicial Survivors’ Annuities Fund and if not, then what adjustments in the contribution rates under subsection (b) should be made to achieve that 50 percent figure. The Comptroller General shall report the results of each determination under this subsection to the Congress.”.

Reports.

28 USC 376  
note.

(j) **CREDIT FOR PRIOR CONTRIBUTIONS AT HIGHER RATE.**—Notwithstanding any other provision of law, the contribution under section 376(b) (1) or (2) of title 28, United States Code (as amended by this section), of any judicial official who is within the purview of such section 376 on the effective date of this title shall be reduced by 0.5 percent for a period of time equal to the number of years of service for which the judicial official has made contributions or deposits before the enactment of this Act to the credit of the Judicial Survivors’ Annuities Fund or for 18 months, whichever is less, if such contributions or deposits were never returned to the judicial official. For purposes of this subsection, the term “years” shall mean full years and twelfth parts thereof.

28 USC 376  
note.

(k) **REDEPOSIT OF PRIOR CONTRIBUTIONS.**—Any judicial official as defined in section 376(a)(1) of title 28, United States Code, who makes an election under section 376(b) of title 28, United States Code, may make a redeposit, as required by section 7 of Public Law 94-554 and section 2(c)(2) of Public Law 99-336, to the credit of the Judicial Survivors’ Annuities Fund in installments, in such amounts and under such conditions as may be determined in each instance by the Director of the Administrative Office of the United States Courts. If a judicial official elects to make a redeposit in installments—

(1) the Director shall require that the first installment payment made shall be in an amount no smaller than the last 18 months of salary deductions or deposits previously returned to that judicial official in a lump-sum payment; and

(2) the election under section 376(b) of title 28, United States Code, shall be effective upon payment of the first such installment.

**(1) AUDIT BY GAO.—The Comptroller General shall—**28 USC 376  
note.

(1) conduct an audit of the judicial survivors annuities program under section 376 of title 28, United States Code, for the 3-year period beginning on the date of the enactment of this Act; and

(2) report to the Congress, not later than 60 days after the end of that 3-year period, on the results of such audit, comparing such program to other survivors annuities programs within the Federal Government.

Reports.

**SEC. 202. EFFECTIVE DATE.**28 USC 376  
note.

This title and the amendments made by this title shall take effect on the date of the enactment of this Act.

## **TITLE III—JUDICIAL FINANCIAL ADMINISTRATION**

**SEC. 301. AWARD OF FILING FEES IN FAVOR OF THE UNITED STATES.**

(a) ACTIONS COMMENCED BY THE UNITED STATES.—Section 2412(a) of title 28, United States Code, is amended—

(1) by inserting “(1)” after “(a)”; and

(2) by adding at the end the following new paragraph:

“(2) A judgment for costs, when awarded in favor of the United States in an action brought by the United States, may include an amount equal to the filing fee prescribed under section 1914(a) of this title. The preceding sentence shall not be construed as requiring the United States to pay any filing fee.”.

(b) DISPOSITION OF FILING FEES.—Section 1931 of title 28, United States Code, is amended by striking “The following” and all that follows through the end and inserting the following:

“(a) Of the amounts paid to the clerk of court as a fee under section 1914(a) or as part of a judgment for costs under section 2412(a)(2) of this title, \$60 shall be deposited into a special fund of the Treasury to be available to offset funds appropriated for the operation and maintenance of the courts of the United States.

“(b) If the court authorizes a fee under section 1914(a) or an amount included in a judgment for costs under section 2412(a)(2) of this title of less than \$120, the entire fee or amount, up to \$60, shall be deposited into the special fund provided in this section.”.

## **TITLE IV—JURY MATTERS**

**SEC. 401. JURY SELECTION.**

Section 1863(b)(2) of title 28, United States Code, is amended by adding at the end the following: “The plan for the district of Massachusetts may require the names of prospective jurors to be selected from the resident list provided for in chapter 234A, Massachusetts General Laws, or comparable authority, rather than from voter lists.”.

Massachusetts.

**SEC. 402. GRAND JURY TRAVEL.**

Section 1871(c) of title 28, United States Code, is amended by adding at the end the following new paragraph:

“(5) A grand juror who travels to district court pursuant to a summons may be paid the travel expenses provided under this section or, under guidelines established by the Judicial Conference, the actual reasonable costs of travel by aircraft when travel by other means is not feasible and when certified by the chief judge of the district court in which the grand juror serves.”.

**SEC. 403. PERMANENT AUTHORIZATION FOR OPTIONAL USE OF NEW JURY SELECTION PROCESS.**

(a) **AUTHORITY TO USE ONE-STEP PROCEDURE.**—Section 1878 of title 28, United States Code, is amended to read as follows:

**“§ 1878. Optional use of a one-step summoning and qualification procedure**

“(a) At the option of each district court, jurors may be summoned and qualified in a single procedure, if the court’s jury selection plan so authorizes, in lieu of the two separate procedures otherwise provided for by this chapter. Courts shall ensure that a one-step summoning and qualification procedure conducted under this section does not violate the policies and objectives set forth in sections 1861 and 1862 of this title.

“(b) Jury selection conducted under this section shall be subject to challenge under section 1867 of this title for substantial failure to comply with the provisions of this title in selecting the jury. However, no challenge under section 1867 of this title shall lie solely on the basis that a jury was selected in accordance with a one-step summoning and qualification procedure authorized by this section.”.

(b) **CONFORMING AMENDMENT.**—The item relating to section 1878 in the table of sections for chapter 121 is amended to read as follows:

“1878. Optional use of a one-step summoning and qualification procedure.”.

(c) **SAVINGS PROVISION.**—For courts participating in the experiment authorized under section 1878 of title 28, United States Code (as in effect before the effective date of this section), the amendment made by subsection (a) of this section shall be effective on and after January 1, 1992.

Effective date.  
28 USC 1878  
note.

## TITLE V—MISCELLANEOUS

**SEC. 501. PRETERMISSION OF REGULAR SESSIONS OF COURT OF APPEALS.**

Section 48(c) of title 28, United States Code, is amended by striking “, with the consent of the Judicial Conference of the United States, .

**SEC. 502. REPORTS AND STATISTICS.**

(a) **ELIMINATION OF DUPLICATIVE REPORTING REQUIREMENT.**—After January 1, 1992, the Director of the Administrative Office of the United States Courts is not required to send a report under section 1121(a) of Public Law 95-630 (12 U.S.C. 3421(a)).

(b) **TRANSFER OF REPORTING DUTY TO ADMINISTERING AGENCY.**—Section 2412(d)(5) of title 28, United States Code, is amended by striking “The Director” and all that follows through “this title,” and inserting “The Attorney General shall report annually to the Congress on”.

12 USC 3421  
note.

(c) **EXTENSION FOR JUDICIAL CENTER REPORT.**—Section 302(c) of the Judicial Improvements Act of 1990 (Public Law 101-650; 104 Stat. 5104) is amended by striking “2 years” and inserting “2 years and 9 months”.

28 USC 620  
note.

**SEC. 503. RECYCLING AND REUSE OF RECYCLABLE MATERIALS.**

Section 604(g) of title 28, United States Code, is amended by adding at the end the following new paragraph:

“(3)(A) In order to promote the recycling and reuse of recyclable materials, the Director may provide for the sale or disposal of recyclable scrap materials from paper products and other consumable office supplies held by an entity within the judicial branch.

“(B) The sale or disposal of recyclable materials under subparagraph (A) shall be consistent with the procedures provided in section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) for the sale of surplus property.

“(C) Proceeds from the sale of recyclable materials under subparagraph (A) shall be deposited as offsetting collections to the fund established under section 1931 of this title and shall remain available until expended to reimburse any appropriations for the operation and maintenance of the judicial branch.”.

**SEC. 504. VENUE IN DIVERSITY AND FEDERAL QUESTION CASES.**

Section 1391(a)(3) of title 28, United States Code, is amended by inserting before the period “, if there is no district in which the action may otherwise be brought”.

**SEC. 505. SUMMARIES OF REPORTS TO CONGRESS.**

Section 103(c)(4)(B) of the Civil Justice Reform Act of 1990 (Public Law 101-650) is amended by striking “the reports” and inserting “summaries of the reports”.

28 USC 471  
note.

**SEC. 506. COSTS AND FEES IN THE UNITED STATES COURT OF VETERANS APPEALS.**

(a) **IN GENERAL.**—Section 2412(d)(2)(F) of title 28, United States Code, is amended by inserting before the semicolon “and the United States Court of Veterans Appeals”.

(b) **APPLICATION TO PENDING CASES.**—The amendment made by subsection (a) shall apply to any case pending before the United States Court of Veterans Appeals on the date of the enactment of this Act, to any appeal filed in that court on or after such date, and to any appeal from that court that is pending on such date in the United States Court of Appeals for the Federal Circuit.

28 USC 2412  
note.

(c) **FEE AGREEMENTS.**—Section 5904(d) of title 38, United States Code, shall not prevent an award of fees and other expenses under section 2412(d) of title 28, United States Code. Section 5904(d) of title 38, United States Code, shall not apply with respect to any such award but only if, where the claimant's attorney receives fees for the same work under both section 5904 of title 38, United States Code, and section 2412(d) of title 28, United States Code, the claimant's attorney refunds to the claimant the amount of the smaller fee.

28 USC 2412  
note.

(d) **EFFECTIVE DATE.**—This section, and the amendment made by this section, shall take effect on the date of the enactment of this Act.

28 USC 2412  
note.

## TITLE VI—JUDICIARY PERSONNEL ADMINISTRATION, BENEFITS, AND PROTECTIONS

### SEC. 601. JUDICIAL RETIREMENT MATTERS.

(a) JUDICIAL RETIREMENT FUNDS.—Section 255(g)(1)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 905(g)(1)(B)) is amended by inserting after “Judicial survivors’ annuities fund (10–8110–0–7–602);” the following:

“Judicial Officers’ Retirement Fund (10–8122–0–7–602);

“Court of Federal Claims Judges’ Retirement Fund (10–8124–0–7–602);”.

(b) JUDICIARY TRUST FUNDS.—Section 255(g)(1)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 905(g)(1)(A)) is amended by inserting after “Payment to civil service retirement and disability fund (24–0200–0–1–805);” the following:

“Payment to Judiciary Trust Funds (10–0941–0–1–752);”.

### SEC. 602. FEDERAL JUDICIAL CENTER.

(a) FUNCTIONS.—Subsection 620(b) of title 28, United States Code, is amended—

(1) in paragraph (4) by striking “and” at the end;

(2) in paragraph (5) by striking the period and inserting “; and”; and

(3) by adding at the end the following new paragraph:

“(6) insofar as may be consistent with the performance of the other functions set forth in this section, to cooperate with and assist agencies of the Federal Government and other appropriate organizations in providing information and advice to further improvement in the administration of justice in the courts of foreign countries and to acquire information about judicial administration in foreign countries that may contribute to performing the other functions set forth in this section.”.

(b) CLERICAL COMPENSATION.—Subsection 625(c) of title 28, United States Code, is amended by striking “competitive service and” and inserting “competitive service without regard to”.

## TITLE VII—CRIMINAL ADMINISTRATIVE MATTERS

### SEC. 701. NEW AUTHORITY FOR PROBATION AND PRETRIAL SERVICES OFFICERS.

(a) PROBATION OFFICERS.—Section 3603 of title 18, United States Code, is amended—

(1) in paragraph (7) by striking “and” at the end;

(2) by redesignating paragraph (8) as paragraph (9) and inserting after paragraph (7) the following new paragraph:

“(8)(A) when directed by the court, and to the degree required by the regimen of care or treatment ordered by the court as a condition of release, keep informed as to the conduct and provide supervision of a person conditionally released under the provisions of section 4243 or 4246 of this title, and report

Reports.

such person's conduct and condition to the court ordering release and to the Attorney General or his designee; and

“(B) immediately report any violation of the conditions of release to the court and the Attorney General or his designee; and”.

(b) PRETRIAL SERVICES.—Section 3154 of title 18, United States Code, is amended—

(1) by redesignating paragraph (12) as paragraph (13); and

(2) by inserting after paragraph (11) the following new paragraph:

“(12)(A) As directed by the court and to the degree required by the regimen of care or treatment ordered by the court as a condition of release, keep informed as to the conduct and provide supervision of a person conditionally released under the provisions of section 4243 or 4246 of this title, and report such person's conduct and condition to the court ordering release and the Attorney General or his designee.

“(B) Any violation of the conditions of release shall immediately be reported to the court and the Attorney General or his designee.”.

**SEC. 702. GOVERNMENT RATES OF TRAVEL FOR CRIMINAL JUSTICE ACT ATTORNEYS AND EXPERTS.**

Contracts.  
18 USC 3006A  
note.

The Administrator of General Services, in entering into contracts providing for special rates to be charged by Federal Government sources of supply, including common carriers and hotels (or other commercial providers of lodging) for official travel and accommodation of Federal Government employees, shall provide for charging the same rates for attorneys, experts, and other persons traveling primarily in connection with carrying out responsibilities under section 3006A of title 18, United States Code, including community defender organizations established under subsection (g) of that section.

**SEC. 703. TECHNICAL CORRECTION.**

Section 3143(b)(1) of title 18, United States Code, is amended by striking “paragraph (b)(2)(D)” and inserting “subparagraph (B)(iv) of this paragraph”.

## **TITLE VIII—STATE JUSTICE INSTITUTE REAUTHORIZATION**

**SEC. 801. AUTHORIZATION OF APPROPRIATIONS.**

The text of section 215 of the State Justice Institute Act of 1984 (Public Law 98-620; 42 U.S.C. 10713) is amended to read as follows:

“SEC. 215. There are authorized to be appropriated to carry out the purposes of this title \$20,000,000 for fiscal year 1993, \$20,000,000 for fiscal year 1994, \$25,000,000 for fiscal year 1995, and \$25,000,000 for fiscal year 1996. Amounts appropriated for each such year are to remain available until expended.”.

**SEC. 802. INTERAGENCY AGREEMENTS.**

Section 206(b) of the State Justice Institute Act of 1984 (42 U.S.C. 10705(b)) is amended—



(1) in paragraph (1)—

(A) by striking “shall give priority to grants, cooperative agreements, or contracts” and inserting “may award grants to or enter into cooperative agreements or contracts”; and

(B) in subparagraph (A) by striking the comma and inserting a semicolon;

(2) in paragraph (2) by inserting “to” after “award grants”;

(3) by striking paragraph (3) and inserting the following:

“(3) Upon application by an appropriate State or local agency or institution and if the arrangements to be made by such agency or institution will provide services which could not be provided adequately through nongovernmental arrangements, the Institute may award a grant or enter into a cooperative agreement or contract with a unit of State or local government other than a court.”;

(4) by redesignating paragraph (4) as paragraph (5); and

(5) by inserting after paragraph (3) the following new paragraph:

“(4) The Institute may enter into contracts with Federal agencies to carry out the purposes of this title.”.

#### SEC. 803. TECHNICAL AMENDMENTS.

(a) BOARD OF DIRECTORS.—Section 204(a)(3) of the State Justice Institute Act of 1984 (42 U.S.C. 10703(a)(3)) is amended in the second sentence by striking “conference” and inserting “Conference”.

(b) USES OF FUNDS.—Section 206(c)(7) of the State Justice Institute Act of 1984 (42 U.S.C. 10705(c)(7)) is amended by striking “effect” and inserting “affect”.

42 USC 10703  
note.

#### SEC. 804. EFFECTIVE DATE.

The provisions of this title shall take effect on the date of the enactment of this Act.

Court of Federal  
Claims  
Technical  
and Procedural  
Improvements  
Act of 1992.  
28 USC 1  
note.

## TITLE IX—COURT OF FEDERAL CLAIMS

#### SEC. 901. SHORT TITLE.

This title may be cited as the “Court of Federal Claims Technical and Procedural Improvements Act of 1992”.

#### SEC. 902. COURT DESIGNATION.

(a) IN GENERAL.—Chapters 7, 51, 91, and 165 of title 28, United States Code, are amended—

(1) by striking “United States Claims Court” each place it appears and inserting “United States Court of Federal Claims”; and

(2) by striking “Claims Court” each place it appears and inserting “Court of Federal Claims”.

(b) OTHER PROVISIONS OF LAW.—Reference in any other Federal law or any document to—

(1) the “United States Claims Court” shall be deemed to refer to the “United States Court of Federal Claims”; and

(2) the “Claims Court” shall be deemed to refer to the “Court of Federal Claims”.

28 USC 171  
note.

**SEC. 903. MILITARY RETIREMENT PAY FOR RETIRED JUDGES.**

(a) **IN GENERAL.**—Chapter 7 of title 28, United States Code, is amended by adding at the end the following new section:

**“§ 180. Military retirement pay for retired judges**

“Section 371(e) of this title applies to judges of the United States Court of Federal Claims, and for the purpose of construing section 371(e) of this title, a judge of the United States Court of Federal Claims shall be deemed to be a judge of the United States as defined in section 451 of this title.”.

(b) **TABLE OF SECTIONS.**—The table of sections for chapter 7 of title 28, United States Code, is amended by adding at the end the following:

“179. Insurance and annuities programs.

“180. Military retirement pay for retired judges.”.

**SEC. 904. RECALL OF COURT OF FEDERAL CLAIMS JUDGES ON SENIOR STATUS.**

(a) **IN GENERAL.**—Section 375 of title 28, United States Code, is amended—

(1) in the first sentence of subsection (a)(1) by striking “, a judge of the Claims Court,” and “, judge of the Claims Court,”;

(2) by amending paragraph (2) of subsection (a) to read as follows:

“(2) For purposes of paragraph (1) of this subsection, a certification may be made, in the case of a bankruptcy judge or a United States magistrate, by the judicial council of the circuit in which the official duty station of the judge or magistrate at the time of retirement was located.”;

(3) by amending paragraph (3) of subsection (a) to read as follows:

“(3) For purposes of this section, the term ‘bankruptcy judge’ means a bankruptcy judge appointed under chapter 6 of this title or serving as a bankruptcy judge on March 31, 1984.”; and

(4) in subsection (f)—

(A) by striking “, a judge of the Claims Court,”; and

(B) by striking “, a commissioner of the Court of Claims,”.

(b) **RECALL OF RETIRED JUDGES.**—Section 797(d) of title 28, United States Code, is amended in the second sentence by striking “civil service”.

**SEC. 905. LAW CLERKS.**

The first sentence of section 794 of title 28, United States Code, is amended by inserting after “may approve” the following: “for district judges”.

**SEC. 906. SITES FOR HOLDING COURT.**

(a) **IN GENERAL.**—Section 798(a) of title 28, United States Code, is amended to read as follows:

“(a) The United States Court of Federal Claims is authorized to use facilities and hold court in Washington, District of Columbia, and throughout the United States (including its territories and possessions) as necessary for compliance with sections 173 and 2503(c) of this title. The facilities of the Federal courts, as well as other comparable facilities administered by the General Services

Administration, shall be made available for trials and other proceedings outside of the District of Columbia.”

(b) HEARING IN A FOREIGN COUNTRY.—Section 798 of title 28, United States Code, is amended—

- (1) by redesignating subsection (b) as subsection (c); and
- (2) by inserting after subsection (a) the following:

“(b) Upon application of a party or upon the judge’s own initiative, and upon a showing that the interests of economy, efficiency, and justice will be served, the chief judge of the Court of Federal Claims may issue an order authorizing a judge of the court to conduct proceedings, including evidentiary hearings and trials, in a foreign country whose laws do not prohibit such proceedings, except that an interlocutory appeal may be taken from such an order pursuant to section 1292(d)(2) of this title, and the United States Court of Appeals for the Federal Circuit may, in its discretion, consider the appeal.”

(c) APPEAL JURISDICTION.—Section 1292(d)(2) of title 28, United States Code, is amended by inserting after “When” the following: “the chief judge of the United States Court of Federal Claims issues an order under section 798(b) of this title, or when”.

#### SEC. 907. JURISDICTION.

(a) CERTIFICATIONS.—(1) Section 6(c) of the Contract Disputes Act of 1978 (41 U.S.C. 605(c)) is amended—

(A) in paragraph (1) in the second sentence—

- (i) by striking “and” after “belief”; and
- (ii) by inserting before the period at the end of the sentence the following: “, and that the certifier is duly authorized to certify the claim on behalf of the contractor”; and

(B) by adding at the end the following:

“(6) The contracting officer shall have no obligation to render a final decision on any claim of more than \$50,000 that is not certified in accordance with paragraph (1) if, within 60 days after receipt of the claim, the contracting officer notifies the contractor in writing of the reasons why any attempted certification was found to be defective. A defect in the certification of a claim shall not deprive a court or an agency board of contract appeals of jurisdiction over that claim. Prior to the entry of a final judgment by a court or a decision by an agency board of contract appeals, the court or agency board shall require a defective certification to be corrected.

“(7) The certification required by paragraph (1) may be executed by any person duly authorized to bind the contractor with respect to the claim.”

41 USC 605  
note.

(2) The amendment made by paragraph (1)(B) shall be effective with respect to all claims filed before, on, or after the date of the enactment of this Act, except for those claims which, before such date of enactment, have been the subject of an appeal to an agency board of contract appeals or a suit in the United States Claims Court.

41 USC 611  
note.

(3) If any interest is due under section 12 of the Contract Disputes Act of 1978 on a claim for which the certification under section 6(c)(1) is, on or after the date of the enactment of this Act, found to be defective shall be paid from the later of the date on which the contracting officer initially received the claim or the date of the enactment of this Act.

(4) The amendments made by paragraph (1)(A) shall be effective with respect to certifications executed more than 60 days after the effective date of amendments to the Federal Acquisition Regulation implementing the amendments made by paragraph (1)(A) with respect to the certification of claims.

Effective date.  
41 USC 605  
note.

(b) JURISDICTION OF COURT OF FEDERAL CLAIMS.—(1) Section 1491(a)(2) of title 28, United States Code, is amended in the last sentence by inserting before the period at the end the following: “, including a dispute concerning termination of a contract, rights in tangible or intangible property, compliance with cost accounting standards, and other nonmonetary disputes on which a decision of the contracting officer has been issued under section 6 of that Act”.

(2) The amendment made by paragraph (1) shall be effective with respect to all actions filed before, on, or after the date of the enactment of this Act, except for those actions which, before such date of enactment, have been the subject of—

Effective date.  
28 USC 1491  
note.

(A) a final judgment of the United States Claims Court, if the time for appeal of that judgment has expired without an appeal having been filed, or

(B) a final judgment of the Court of Appeals for the Federal Circuit.

#### SEC. 908. AWARDABLE COSTS.

(a) AWARD OF COSTS.—Section 1919 of title 28, United States Code, is amended—

(1) by striking “district court or” and inserting “district court,”; and

(2) by inserting after “Trade” the following: “, or the Court of Federal Claims”.

(b) TECHNICAL AMENDMENTS.—(1) The section caption for section 1919 of title 28, United States Code, is amended to read as follows:

##### **“§ 1919. Dismissal for lack of jurisdiction”.**

(2) The item relating to section 1919 in the table of sections for chapter 123 of title 28, United States Code, is amended to read as follows:

“1919. Dismissal for lack of jurisdiction.”.

#### SEC. 909. PROCEEDINGS GENERALLY.

Section 2503 of title 28, United States Code, is amended by adding at the end the following:

“(d) For the purpose of construing sections 1821, 1915, 1920, and 1927 of this title, the United States Court of Federal Claims shall be deemed to be a court of the United States.”.

#### SEC. 910. SUBPOENAS AND INCIDENTAL POWERS.

(a) IN GENERAL.—Section 2521 of title 28, United States Code, is amended—

(1) by amending the section caption to read as follows:

##### **“§ 2521. Subpoenas and incidental powers”;**

(2) by inserting “(a)” before “Subpoenas requiring”; and

(3) by adding at the end the following new subsections:

“(b) The United States Court of Federal Claims shall have power to punish by fine or imprisonment, at its discretion, such contempt of its authority as—

“(1) misbehavior of any person in its presence or so near thereto as to obstruct the administration of justice;

“(2) misbehavior of any of its officers in their official transactions; or

“(3) disobedience or resistance to its lawful writ, process, order, rule, decree, or command.

“(c) The United States Court of Federal Claims shall have such assistance in the carrying out of its lawful writ, process, order, rule, decree, or command as is available to a court of the United States. The United States marshal for any district in which the Court of Federal Claims is sitting shall, when requested by the chief judge of the Court of Federal Claims, attend any session of the Court of Federal Claims in such district.”.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 165 of title 28, United States Code, is amended by amending the item relating to section 2521 to read as follows:

“2521. Subpoenas and incidental powers.”.

28 USC 171  
note.

#### SEC. 911. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect on the date of the enactment of this Act.

## TITLE X—ADDITIONAL PROVISIONS

### SEC. 1001. VICTIMS' RIGHTS FUNDING.

Section 1402 of the Victims of Crime Act of 1984 (42 U.S.C. 10601) is amended—

(1) by striking subsection (c) and inserting the following:

“(c) Sums deposited in the Fund shall remain in the Fund and be available for expenditure under this subsection for grants under this chapter without fiscal year limitation.”; and

(2) by striking subsection (d) and inserting the following:

“(d) The Fund shall be available as follows:

“(1) The first \$6,200,000 deposited in the Fund in each of the fiscal years 1992 through 1995 and the first \$3,000,000 in each fiscal year thereafter shall be available to the judicial branch for administrative costs to carry out the functions of the judicial branch under sections 3611 and 3612 of title 18, United States Code.

“(2) Of the next \$100,000,000 deposited in the Fund in a particular fiscal year—

“(A) 49.5 percent shall be available for grants under section 1403; and

“(B) 45 percent shall be available for grants under section 1404(a).

“(3) The next \$5,500,000 deposited in the Fund in a particular fiscal year shall be available for grants under section 1404(a).

“(4) The next \$4,500,000 deposited in the Fund in a particular fiscal year shall be available for grants under section 1404(a).

“(5) Any deposits in the Fund in a particular fiscal year that remain after the funds are distributed under paragraphs (1) through (4) shall be available as follows:

“(A) 47.5 percent shall be available for grants under section 1403.

“(B) 47.5 percent shall be available for grants under section 1404(a).

“(C) 5 percent shall be available for grants under section 1404(c).”

**SEC. 1002. AUTHORITY TO LIMIT COLLECTION OF PRETRIAL INFORMATION IN CLASS A MISDEMEANOR CASES.**

Section 3154(1) of title 18, United States Code, is amended by inserting before the period “; except that a district court may direct that information not be collected, verified, or reported under this paragraph on individuals charged with Class A misdemeanors as defined in section 3559(a)(6) of this title”.

**SEC. 1003. TERRORISM CIVIL REMEDY.**

(a) **TERRORISM.**—Chapter 113A of title 18, United States Code, is amended—

(1) in section 2331 by striking subsection (d) and redesignating subsection (e) as subsection (d);

(2) by redesignating section 2331 as 2332 and striking the caption for section 2331 and inserting the following:

**“§ 2332. Criminal penalties”;**

(3) by inserting before section 2332 as redesignated the following:

**“§ 2331. Definitions**

“As used in this chapter—

“(1) the term ‘international terrorism’ means activities that—

“(A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State;

“(B) appear to be intended—

“(i) to intimidate or coerce a civilian population;

“(ii) to influence the policy of a government by intimidation or coercion; or

“(iii) to affect the conduct of a government by assassination or kidnapping; and

“(C) occur primarily outside the territorial jurisdiction of the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to intimidate or coerce, or the locale in which their perpetrators operate or seek asylum;

“(2) the term ‘national of the United States’ has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act;

“(3) the term ‘person’ means any individual or entity capable of holding a legal or beneficial interest in property; and

“(4) the term ‘act of war’ means any act occurring in the course of—

“(A) declared war;

“(B) armed conflict, whether or not war has been declared, between two or more nations; or

“(C) armed conflict between military forces of any origin.”;

(4) by adding after section 2332, as redesignated by paragraph (2) of this subsection, the following new sections:

**“§ 2333. Civil remedies**

“(a) ACTION AND JURISDICTION.—Any national of the United States injured in his or her person, property, or business by reason of an act of international terrorism, or his or her estate, survivors, or heirs, may sue therefor in any appropriate district court of the United States and shall recover threefold the damages he or she sustains and the cost of the suit, including attorney’s fees.

“(b) ESTOPPEL UNDER UNITED STATES LAW.—A final judgment or decree rendered in favor of the United States in any criminal proceeding under section 1116, 1201, 1203, or 2332 of this title or section 902(i), (k), (l), (n), or (r) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472(i), (k), (l), (n), or (r)) shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding under this section.

“(c) ESTOPPEL UNDER FOREIGN LAW.—A final judgment or decree rendered in favor of any foreign state in any criminal proceeding shall, to the extent that such judgment or decree may be accorded full faith and credit under the law of the United States, estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding under this section.

**“§ 2334. Jurisdiction and venue**

“(a) GENERAL VENUE.—Any civil action under section 2333 of this title against any person may be instituted in the district court of the United States for any district where any plaintiff resides or where any defendant resides or is served, or has an agent. Process in such a civil action may be served in any district where the defendant resides, is found, or has an agent.

“(b) SPECIAL MARITIME OR TERRITORIAL JURISDICTION.—If the actions giving rise to the claim occurred within the special maritime and territorial jurisdiction of the United States, as defined in section 7 of this title, then any civil action under section 2333 of this title against any person may be instituted in the district court of the United States for any district in which any plaintiff resides or the defendant resides, is served, or has an agent.

“(c) SERVICE ON WITNESSES.—A witness in a civil action brought under section 2333 of this title may be served in any other district where the defendant resides, is found, or has an agent.

“(d) CONVENIENCE OF THE FORUM.—The district court shall not dismiss any action brought under section 2333 of this title on the grounds of the inconvenience or inappropriateness of the forum chosen, unless—

“(1) the action may be maintained in a foreign court that has jurisdiction over the subject matter and over all the defendants;

“(2) that foreign court is significantly more convenient and appropriate; and

“(3) that foreign court offers a remedy which is substantially the same as the one available in the courts of the United States.

**“§ 2335. Limitation of actions**

“(a) IN GENERAL.—Subject to subsection (b), a suit for recovery of damages under section 2333 of this title shall not be maintained unless commenced within 4 years after the date the cause of action accrued.

“(b) CALCULATION OF PERIOD.—The time of the absence of the defendant from the United States or from any jurisdiction in which the same or a similar action arising from the same facts may be maintained by the plaintiff, or of any concealment of the defendant's whereabouts, shall not be included in the 4-year period set forth in subsection (a).

**“§ 2336. Other limitations**

“(a) ACTS OF WAR.—No action shall be maintained under section 2333 of this title for injury or loss by reason of an act of war.

“(b) LIMITATION ON DISCOVERY.—If a party to an action under section 2333 seeks to discover the investigative files of the Department of Justice, the Assistant Attorney General, Deputy Attorney General, or Attorney General may object on the ground that compliance will interfere with a criminal investigation or prosecution of the incident, or a national security operation related to the incident, which is the subject of the civil litigation. The court shall evaluate any such objections in camera and shall stay the discovery if the court finds that granting the discovery request will substantially interfere with a criminal investigation or prosecution of the incident or a national security operation related to the incident. The court shall consider the likelihood of criminal prosecution by the Government and other factors it deems to be appropriate. A stay of discovery under this subsection shall constitute a bar to the granting of a motion to dismiss under rules 12(b)(6) and 56 of the Federal Rules of Civil Procedure. If the court grants a stay of discovery under this subsection, it may stay the action in the interests of justice.

“(c) STAY OF ACTION FOR CIVIL REMEDIES.—(1) The Attorney General may intervene in any civil action brought under section 2333 for the purpose of seeking a stay of the civil action. A stay shall be granted if the court finds that the continuation of the civil action will substantially interfere with a criminal prosecution which involves the same subject matter and in which an indictment has been returned, or interfere with national security operations related to the terrorist incident that is the subject of the civil action. A stay may be granted for up to 6 months. The Attorney General may petition the court for an extension of the stay for additional 6-month periods until the criminal prosecution is completed or dismissed.

“(2) In a proceeding under this subsection, the Attorney General may request that any order issued by the court for release to the parties and the public omit any reference to the basis on which the stay was sought.

**“§ 2337. Suits against Government officials**

“No action shall be maintained under section 2333 of this title against—

“(1) the United States, an agency of the United States, or an officer or employee of the United States or any agency thereof acting within his or her official capacity or under color of legal authority; or



“(2) a foreign state, an agency of a foreign state, or officer or employee of a foreign state or an agency thereof acting within his or her official capacity or under color of legal authority.

**“§ 2338. Exclusive Federal jurisdiction**

“The district courts of the United States shall have exclusive jurisdiction over an action brought under this chapter.”; and  
(5) by amending the table of sections to read as follows:

**“CHAPTER 113A—TERRORISM**

“Sec.

“2331. Definitions.

“2332. Criminal penalties.

“2333. Civil remedies.

“2334. Jurisdiction and venue.

“2335. Limitation of actions.

“2336. Other limitations.

“2337. Suits against Government officials.

“2338. Exclusive Federal jurisdiction.”.

(b) **TABLE OF CONTENTS.**—The table of contents of part title 18, United States Code, is amended by striking

“113A. Extraterritorial jurisdiction over terrorist acts abroad against United States nationals ..... 1  
and inserting

“113A. Terrorism ..... 2

18 USC 2331  
note.

(c) **EFFECTIVE DATE.**—This section and the amendments made by this section shall apply to any pending case or any cause of action arising on or after 4 years before the date of enactment of this Act.

**TITLE XI—EFFECTIVE DATE**

**SEC. 1101. EFFECTIVE DATE.**

2 USC 905  
note.

(a) **IN GENERAL.**—Except as otherwise provided in this title, the provisions of this Act and the amendments made by this Act shall take effect on January 1, 1993.

(b) AVAILABILITY OF APPROPRIATIONS.—Notwithstanding any provision of this Act, all sums expended pursuant to this Act shall be subject to the availability of appropriations.

Approved October 29, 1992.

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**LEGISLATIVE HISTORY—S. 1569 (H.R. 5933):**

**HOUSE REPORTS:** No. 102-1006 accompanying H.R. 5933 (Comm. on the Judiciary).

**SENATE REPORTS:** No. 102-342 (Comm. on the Judiciary).

**CONGRESSIONAL RECORD**, Vol. 138 (1992):

Aug. 3, considered and passed Senate.

Oct. 3, H.R. 5933 considered and passed House; S. 1569, amended, passed in lieu.

Oct. 7, Senate concurred in House amendment.

**WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS**, Vol. 28 (1992):

Oct. 29, Presidential statement.

Public Law 102-573  
102d Congress

An Act

Oct. 29, 1992  
[S. 2481]

Indian Health  
Amendments of  
1992.  
25 USC 1601  
note.

To amend the Indian Health Care Improvement Act to authorize appropriations for Indian health programs, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Indian Health Amendments of 1992".

**SEC. 2. AMENDMENTS TO INDIAN HEALTH CARE IMPROVEMENT ACT.**

Except as otherwise specifically provided, whenever in this Act a section or other provision is amended or repealed, such amendment or repeal shall be considered to be made to that section or other provision of the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

**SEC. 3. FINDINGS; POLICY; AND DEFINITIONS.**

(a) FINDINGS.—Section 2 of the Act (25 U.S.C. 1601) is amended—

(1) in the matter preceding paragraph (a), by striking "finds that—" and inserting "finds the following:";

(2) in paragraph (d), by striking out the second sentence; and

(3) by striking out paragraphs (e), (f), and (g).

(b) DECLARATION OF POLICY.—Section 3 of the Act (25 U.S.C. 1602) is amended to read as follows:

**"DECLARATION OF HEALTH OBJECTIVES**

"SEC. 3. (a) The Congress hereby declares that it is the policy of this Nation, in fulfillment of its special responsibilities and legal obligation to the American Indian people, to assure the highest possible health status for Indians and urban Indians and to provide all resources necessary to effect that policy.

"(b) It is the intent of the Congress that the Nation meet the following health status objectives with respect to Indians and urban Indians by the year 2000:

"(1) Reduce coronary heart disease deaths to a level of no more than 100 per 100,000.

"(2) Reduce the prevalence of overweight individuals to no more than 30 percent.

"(3) Reduce the prevalence of anemia to less than 10 percent among children aged 1 through 5.

"(4) Reduce the level of cancer deaths to a rate of no more than 130 per 100,000.

"(5) Reduce the level of lung cancer deaths to a rate of no more than 42 per 100,000.

"(6) Reduce the level of chronic obstructive pulmonary disease related deaths to a rate of no more than 25 per 100,000.

"(7) Reduce deaths among men caused by alcohol-related motor vehicle crashes to no more than 44.8 per 100,000.

"(8) Reduce cirrhosis deaths to no more than 13 per 100,000.

"(9) Reduce drug-related deaths to no more than 3 per 100,000.

"(10) Reduce pregnancies among girls aged 17 and younger to no more than 50 per 1,000 adolescents.

"(11) Reduce suicide among men to no more than 12.8 per 100,000.

"(12) Reduce by 15 percent the incidence of injurious suicide attempts among adolescents aged 14 through 17.

"(13) Reduce to less than 10 percent the prevalence of mental disorders among children and adolescents.

"(14) Reduce the incidence of child abuse or neglect to less than 25.2 per 1,000 children under age 18.

"(15) Reduce physical abuse directed at women by male partners to no more than 27 per 1,000 couples.

"(16) Increase years of healthy life to at least 65 years.

"(17) Reduce deaths caused by unintentional injuries to no more than 66.1 per 100,000.

"(18) Reduce deaths caused by motor vehicle crashes to no more than 39.2 per 100,000.

"(19) Among children aged 6 months through 5 years, reduce the prevalence of blood lead levels exceeding 15 ug/dl and reduce to zero the prevalence of blood lead levels exceeding 25 ug/dl.

"(20) Reduce dental caries (cavities) so that the proportion of children with one or more caries (in permanent or primary teeth) is no more than 45 percent among children aged 6 through 8 and no more than 60 percent among adolescents aged 15.

"(21) Reduce untreated dental caries so that the proportion of children with untreated caries (in permanent or primary teeth) is no more than 20 percent among children aged 6 through 8 and no more than 40 percent among adolescents aged 15.

"(22) Reduce to no more than 20 percent the proportion of individuals aged 65 and older who have lost all of their natural teeth.

"(23) Increase to at least 45 percent the proportion of individuals aged 35 to 44 who have never lost a permanent tooth due to dental caries or periodontal disease.

"(24) Reduce destructive periodontal disease to a prevalence of no more than 15 percent among individuals aged 35 to 44.

"(25) Increase to at least 50 percent the proportion of children who have received protective sealants on the occlusal (chewing) surfaces of permanent molar teeth.

"(26) Reduce the prevalence of gingivitis among individuals aged 35 to 44 to no more than 50 percent.

"(27) Reduce the infant mortality rate to no more than 8.5 per 1,000 live births.

"(28) Reduce the fetal death rate (20 or more weeks of gestation) to no more than 4 per 1,000 live births plus fetal deaths.

"(29) Reduce the maternal mortality rate to no more than 3.3 per 100,000 live births.

"(30) Reduce the incidence of fetal alcohol syndrome to no more than 2 per 1,000 live births.

"(31) Reduce stroke deaths to no more than 20 per 100,000.

"(32) Reverse the increase in end-stage renal disease (requiring maintenance dialysis or transplantation) to attain an incidence of no more than 13 per 100,000.

"(33) Reduce breast cancer deaths to no more than 20.6 per 100,000 women.

"(34) Reduce deaths from cancer of the uterine cervix to no more than 1.3 per 100,000 women.

"(35) Reduce colorectal cancer deaths to no more than 13.2 per 100,000.

"(36) Reduce to no more than 11 percent the proportion of individuals who experience a limitation in major activity due to chronic conditions.

"(37) Reduce significant hearing impairment to a prevalence of no more than 82 per 1,000.

"(38) Reduce significant visual impairment to a prevalence of no more than 30 per 1,000.

"(39) Reduce diabetes-related deaths to no more than 48 per 100,000.

"(40) Reduce diabetes to an incidence of no more than 2.5 per 1,000 and a prevalence of no more than 62 per 1,000.

"(41) Reduce the most severe complications of diabetes as follows:

"(A) End-stage renal disease, 1.9 per 1,000.

"(B) Blindness, 1.4 per 1,000.

"(C) Lower extremity amputation, 4.9 per 1,000.

"(D) Perinatal mortality, 2 percent.

"(E) Major congenital malformations, 4 percent.

"(42) Confine annual incidence of diagnosed AIDS cases to no more than 1,000 cases.

"(43) Confine the prevalence of HIV infection to no more than 100 per 100,000.

"(44) Reduce gonorrhea to an incidence of no more than 225 cases per 100,000.

"(45) Reduce chlamydia trachomatis infections, as measured by a decrease in the incidence of nongonococcal urethritis to no more than 170 cases per 100,000.

"(46) Reduce primary and secondary syphilis to an incidence of no more than 10 cases per 100,000.

"(47) Reduce the incidence of pelvic inflammatory disease, as measured by a reduction in hospitalization for pelvic inflammatory disease to no more than 250 per 100,000 women aged 15 through 44.

"(48) Reduce viral hepatitis B infection to no more than 40 per 100,000 cases.

"(49) Reduce indigenous cases of vaccine-preventable diseases as follows:

"(A) Diphtheria among individuals aged 25 and younger, 0.

"(B) Tetanus among individuals aged 25 and younger, 0.

"(C) Polio (wild-type virus), 0.

"(D) Measles, 0.

"(E) Rubella, 0.

"(F) Congenital Rubella Syndrome, 0.

"(G) Mumps, 500.

"(H) Pertussis, 1,000.

"(50) Reduce epidemic-related pneumonia and influenza deaths among individuals aged 65 and older to no more than 7.3 per 100,000.

"(51) Reduce the number of new carriers of viral hepatitis B among Alaska Natives to no more than 1 case.

"(52) Reduce tuberculosis to an incidence of no more than 5 cases per 100,000.

"(53) Reduce bacterial meningitis to no more than 8 cases per 100,000.

"(54) Reduce infectious diarrhea by at least 25 percent among children.

"(55) Reduce acute middle ear infections among children aged 4 and younger, as measured by days of restricted activity or school absenteeism, to no more than 105 days per 100 children.

"(56) Reduce cigarette smoking to a prevalence of no more than 20 percent.

"(57) Reduce smokeless tobacco use by youth to a prevalence of no more than 10 percent.

"(58) Increase to at least 65 percent the proportion of parents and caregivers who use feeding practices that prevent baby bottle tooth decay.

"(59) Increase to at least 75 percent the proportion of mothers who breast feed their babies in the early postpartum period, and to at least 50 percent the proportion who continue breast feeding until their babies are 5 to 6 months old.

"(60) Increase to at least 90 percent the proportion of pregnant women who receive prenatal care in the first trimester of pregnancy.

"(61) Increase to at least 70 percent the proportion of individuals who have received, as a minimum within the appropriate interval, all of the screening and immunization services and at least one of the counseling services appropriate for their age and gender as recommended by the United States Preventive Services Task Force.

"(c) It is the intent of the Congress that the Nation increase the proportion of all degrees in the health professions and allied and associated health profession fields awarded to Indians to 0.6 percent.

"(d) The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 801, a report on the progress made in each area of the Service toward meeting each of the objectives described in subsection (b)."

Reports.

(c) DEFINITIONS.—Section 4 of the Act (25 U.S.C. 1603) is amended by adding at the end the following new subsections:

"(m) 'Service area' means the geographical area served by each area office.

"(n) 'Health profession' means family medicine, internal medicine, pediatrics, geriatric medicine, obstetrics and gynecology, podiatric medicine, nursing, public health nursing, dentistry, psychiatry, osteopathy, optometry, pharmacy, psychology, public health, social work, marriage and family therapy, chiropractic medicine,

environmental health and engineering, and allied health professions.

“(o) ‘Substance abuse’ includes inhalant abuse.

“(p) ‘FAE’ means fetal alcohol effect.

“(q) ‘FAS’ means fetal alcohol syndrome.”.

## TITLE I—INDIAN HEALTH PROFESSIONALS

### SEC. 101. PURPOSE.

Section 101 of the Act (25 U.S.C. 1611) is amended to read as follows:

#### “PURPOSE

“SEC. 101. The purpose of this title is to increase the number of Indians entering the health professions and to assure an adequate supply of health professionals to the Service, Indian tribes, tribal organizations, and urban Indian organizations involved in the provision of health care to Indian people.”.

### SEC. 102. HEALTH PROFESSIONS.

(a) RECRUITMENT PROGRAM.—Section 102(a) of the Act (25 U.S.C. 1612(a)) is amended—

(1) by amending paragraph (1) to read as follows:

“(1) identifying Indians with a potential for education or training in the health professions and encouraging and assisting them—

“(A) to enroll in courses of study in such health professions; or

“(B) if they are not qualified to enroll in any such courses of study, to undertake such postsecondary education or training as may be required to qualify them for enrollment;”;

(2) in paragraph (2)—

(A) by striking out “school” both places it appears and inserting in lieu thereof the following: “course of study”; and

(B) by striking out “clause (1)(A)” and inserting in lieu thereof the following: “paragraph (1)”; and

(3) in paragraph (3)—

(A) by striking out “Indians,” and inserting in lieu thereof “Indians in,”;

(B) by inserting a comma before “courses”;

(C) by striking out “, in any school”; and

(D) by striking out “clause (1)(A)” and inserting in lieu thereof the following: “paragraph (1)”.

(b) PREPARATORY SCHOLARSHIP PROGRAM.—Section 103 of the Act (25 U.S.C. 1613) is amended—

(1) by amending subsection (a)(2) to read as follows:

“(2) have demonstrated the capability to successfully complete courses of study in the health professions.”;

(2) in subsection (b)(1), by inserting before the period at the end the following: “on a full-time basis (or the part-time equivalent thereof, as determined by the Secretary)”;

(3) by amending subsection (b)(2) to read as follows:

"(2) Pregraduate education of any grantee leading to a baccalaureate degree in an approved course of study preparatory to a field of study in a health profession, such scholarship not to exceed 4 years (or the part-time equivalent thereof, as determined by the Secretary).";

(4) in subsection (c), by striking out "full time"; and

(5) by amending subsection (e) to read as follows:

"(e) The Secretary shall not deny scholarship assistance to an eligible applicant under this section solely by reason of such applicant's eligibility for assistance or benefits under any other Federal program."

(c) HEALTH PROFESSIONS SCHOLARSHIPS.—Section 104 of the Act (25 U.S.C. 1613a) is amended—

(1) in subsection (a)—

(A) by striking out "Indian communities" and inserting in lieu thereof the following: "Indians, Indian tribes, tribal organizations, and urban Indian organizations";

(B) by striking out "full time" and inserting in lieu thereof the following: "full or part time"; and

(C) by striking out "of medicine" and all that follows through "social work" and inserting in lieu thereof the following: "and pursuing courses of study in the health professions";

(2) in subsection (b)—

(A) in paragraph (2)—

(i) by striking out "full time" and inserting in lieu thereof "full or part time"; and

(ii) by striking out "health profession school" and inserting in lieu thereof "course of study";

(B) in paragraph (3)—

(i) by striking "(3)" and inserting "(3)(A)";

(ii) by redesignating subparagraphs (A), (B), (C), and (D) as clauses (i), (ii), (iii), and (iv), respectively; and

(iii) by inserting at the end the following new subparagraphs:

"(B) A recipient of an Indian Health Scholarship may, at the election of the recipient, meet the active duty service obligation prescribed under section 338C of the Public Health Service Act (42 U.S.C. 254m) by service in a program specified in subparagraph (A) that—

"(i) is located on the reservation of the tribe in which the recipient is enrolled; or

"(ii) serves the tribe in which the recipient is enrolled.

"(C) Subject to subparagraph (B), the Secretary, in making assignments of Indian Health Scholarship recipients required to meet the active duty service obligation prescribed under section 338C of the Public Health Service Act (42 U.S.C. 254m), shall give priority to assigning individuals to service in those programs specified in subparagraph (A) that have a need for health professionals to provide health care services as a result of individuals having breached contracts entered into under this section."; and

(C) by adding at the end the following new paragraph:

"(4) In the case of an individual receiving a scholarship under this section who is enrolled part time in an approved course of study—



“(A) such scholarship shall be for a period of years not to exceed the part-time equivalent of 4 years, as determined by the Secretary;

“(B) the period of obligated service specified in section 338A(f)(1)(B)(iv) of the Public Health Service Act (42 U.S.C. 254m(f)(1)(B)(iv)) shall be equal to the greater of—

“(i) the part-time equivalent of one year for each year for which the individual was provided a scholarship (as determined by the Secretary); or

“(ii) two years; and

“(C) the amount of the monthly stipend specified in section 338A(g)(1)(B) of the Public Health Service Act (42 U.S.C. 254m(g)(1)(B)) shall be reduced pro rata (as determined by the Secretary) based on the number of hours such student is enrolled.”;

(3) by amending subsection (c) to read as follows:

Establishment.

“(c) The Secretary shall, acting through the Service, establish a Placement Office to develop and implement a national policy for the placement, to available vacancies within the Service, of Indian Health Scholarship recipients required to meet the active duty service obligation prescribed under section 338C of the Public Health Service Act (42 U.S.C. 254m) without regard to any competitive personnel system, agency personnel limitation, or Indian preference policy.”; and

(4) by striking out subsection (d).

25 USC 1613a  
note.

(d) **EFFECTIVE DATE.**—The amendments made by subsection (c)(1)(C) and subsection (c)(2)(B) shall apply with respect to scholarships granted under section 104 of the Indian Health Care Improvement Act after the date of the enactment of this Act.

(e) **EXTERN PROGRAM.**—Section 105 of the Act (25 U.S.C. 1614) is amended—

(1) in subsection (a), by striking out “section 757 of the Public Health Service Act” and inserting in lieu thereof “section 104”; and

(2) in subsection (b), by striking out “school of medicine” and all that follows through “health professions” and inserting in lieu thereof “course of study in the health professions”.

#### **SEC. 103. BREACH OF CONTRACT PROVISIONS RELATING TO INDIAN HEALTH SCHOLARSHIPS.**

Section 104(b) of the Act (25 U.S.C. 1613a(b)) (as amended by section 102(c) of this Act) is amended by adding at the end the following new paragraph:

“(5)(A) An individual who has, on or after the date of the enactment of this paragraph, entered into a written contract with the Secretary under this section and who—

“(i) fails to maintain an acceptable level of academic standing in the educational institution in which he is enrolled (such level determined by the educational institution under regulations of the Secretary),

“(ii) is dismissed from such educational institution for disciplinary reasons,

“(iii) voluntarily terminates the training in such an educational institution for which he is provided a scholarship under such contract before the completion of such training, or

"(iv) fails to accept payment, or instructs the educational institution in which he is enrolled not to accept payment, in whole or in part, of a scholarship under such contract, in lieu of any service obligation arising under such contract, shall be liable to the United States for the amount which has been paid to him, or on his behalf, under the contract.

"(B) If for any reason not specified in subparagraph (A) an individual breaches his written contract by failing either to begin such individual's service obligation under this section or to complete such service obligation, the United States shall be entitled to recover from the individual an amount determined in accordance with the formula specified in subsection (l) of section 108 in the manner provided for in such subsection."

#### SEC. 104. NURSING.

(a) CONTINUING EDUCATION ALLOWANCES.—Section 106(a) of the Act (25 U.S.C. 1615(a)) is amended by inserting "nurses," after "dentists,".

(b) QUENTIN N. BURDICK AMERICAN INDIANS INTO NURSING PROGRAM.—Section 112 of the Act (25 U.S.C. 1616e) is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (d) the following new subsection:

"(e) The Secretary shall provide one of the grants authorized under subsection (a) to establish and maintain a program at the University of North Dakota to be known as the 'Quentin N. Burdick American Indians Into Nursing Program'. Such program shall, to the maximum extent feasible, coordinate with the Quentin N. Burdick Indian Health Programs established under section 114(b) and the Quentin N. Burdick American Indians Into Psychology Program established under section 217(b)."

Colleges and universities.

(c) TRAINING FOR NURSE MIDWIVES, NURSE ANESTHETISTS, AND NURSE PRACTITIONERS.—Section 112(g) of the Act (25 U.S.C. 1616e(g)) (as redesignated by subsection (b)(1) of this section) is amended to read as follows:

"(g) Beginning with fiscal year 1993, of the amounts appropriated under the authority of this title for each fiscal year to be used to carry out this section, not less than \$1,000,000 shall be used to provide grants under subsection (a) for the training of nurse midwives, nurse anesthetists, and nurse practitioners."

Grants.

(d) RETENTION BONUS FOR NURSES.—Section 117 (25 U.S.C. 1616j) of the Act is amended—

(1) by redesignating subsections (b) through (e) as subsections (c) through (f), respectively;

(2) by adding after subsection (a) the following new subsection (b):

"(b) Beginning with fiscal year 1993, not less than 25 percent of the retention bonuses awarded each year under subsection (a) shall be awarded to nurses;" and

(3) by amending subsection (f) (as amended by paragraph (1)) to read as follows:

"(f) The Secretary may pay a retention bonus to any physician or nurse employed by an organization providing health care services to Indians pursuant to a contract under the Indian Self-Determination Act if such physician or nurse is serving in a position which the Secretary determines is—

“(1) a position for which recruitment or retention is difficult; and

“(2) necessary for providing health care services to Indians.”.

(e) RESIDENCY PROGRAM.—Title I of the Act is amended by adding at the end the following new section:

“NURSING RESIDENCY PROGRAM

25 USC 1616k.

“SEC. 118. (a) The Secretary, acting through the Service, shall establish a program to enable licensed practical nurses, licensed vocational nurses, and registered nurses who are working in an Indian health program (as defined in section 108(a)(2)(A)), and have done so for a period of not less than one year, to pursue advanced training.

“(b) Such program shall include a combination of education and work study in an Indian health program (as defined in section 108(a)(2)(A)) leading to an associate or bachelor's degree (in the case of a licensed practical nurse or licensed vocational nurse) or a bachelor's degree (in the case of a registered nurse).

“(c) An individual who participates in a program under subsection (a), where the educational costs are paid by the Service, shall incur an obligation to serve in an Indian health program for a period of obligated service equal to at least three times the period of time during which the individual participates in such program. In the event that the individual fails to complete such obligated service, the United States shall be entitled to recover from such individual an amount determined in accordance with the formula specified in subsection (1) of section 108 in the manner provided for in such subsection.”.

(f) GRANTS FOR THE PROVISION OF PRIMARY CARE SERVICES ON OR NEAR INDIAN COUNTRY.—Title I of the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.) is amended by adding immediately after section 112 the following new section:

“NURSING SCHOOL CLINICS

25 USC 1616e-1.

“SEC. 112A. (a) GRANTS.—In addition to the authority of the Secretary under section 112(a)(1), the Secretary, acting through the Service, is authorized to provide grants to public or private schools of nursing for the purpose of establishing, developing, operating, and administering clinics to address the health care needs of Indians, and to provide primary health care services to Indians who reside on or within 50 miles of Indian country, as defined in section 1151 of title 18, United States Code.

“(b) PURPOSES.—Grants provided under subsection (a) may be used to—

“(1) establish clinics, to be run and staffed by the faculty and students of a grantee school, to provide primary care services in areas in or within 50 miles of Indian country (as defined in section 1151 of title 18, United States Code);

“(2) provide clinical training, program development, faculty enhancement, and student scholarships in a manner that would benefit such clinics; and

“(3) carry out any other activities determined appropriate by the Secretary.

“(c) AMOUNT AND CONDITIONS.—The Secretary may award grants under this section in such amounts and subject to such conditions as the Secretary deems appropriate.

“(d) DESIGN.—The clinics established under this section shall be designed to provide nursing students with a structured clinical experience that is similar in nature to that provided by residency training programs for physicians.

“(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section.

“(f) AUTHORIZATION TO USE AMOUNTS.—Out of amounts appropriated to carry out this title for each of the fiscal years 1993 through 2000 not more than \$5,000,000 may be used to carry out this section.”.

**SEC. 105. MAINTENANCE OF COMMUNITY HEALTH REPRESENTATIVE PROGRAM.**

Section 107(b) of the Act (25 U.S.C. 1616(b)) is amended—

(1) in paragraph (2), in the material preceding subparagraph (A), by inserting “and maintain” after “develop”;

(2) in paragraph (2)(B), by adding at the end the following: “with appropriate consideration given to lifestyle factors that have an impact on Indian health status, such as alcoholism, family dysfunction, and poverty,”;

(3) in paragraphs (3) and (5), by striking out “develop” each place it appears and inserting in lieu thereof “maintain”;

and

(4) in paragraph (4), by striking out “develop and”.

**SEC. 106. CHANGES TO INDIAN HEALTH SERVICE LOAN REPAYMENT PROGRAM.**

(a) ELIGIBILITY REQUIREMENTS.—Section 108 of the Act (25 U.S.C. 1616a(b)) is amended—

(1) in subsection (a)(1), by striking out “physicians,” and all that follows through “professionals” and inserting in lieu thereof “health professionals”; and

(2) in subsection (b)—

(A) in paragraph (1)(A)—

(i) by amending clause (i) to read as follows:

“(i) in a course of study or program in an accredited institution, as determined by the Secretary, within any State and be scheduled to complete such course of study in the same year such individual applies to participate in such program; or”; and

(ii) in clause (ii), by striking out “medicine” and all that follows through “health profession” and inserting in lieu thereof the following: “a health profession”;

(B) in paragraph (1)(B)—

(i) by inserting “and” at the end of clause (i), by striking out clause (ii), and by redesignating clause (iii) as clause (ii);

(ii) in clause (i), by striking out “medicine, osteopathy, dentistry, or other health profession” and inserting in lieu thereof the following: “a health profession”;

and

(iii) in clause (ii) (as redesignated by clause (i) of this subparagraph), by striking out “medicine, osteopathy, dentistry, or other health profession” and

inserting in lieu thereof the following: "a health profession"; and

(C) in paragraph (2), by inserting "and" at the end of subparagraph (D), by striking out paragraphs (3) and (4), and by inserting after paragraph (2) the following:

"(3) submit to the Secretary an application for a contract described in subsection (f)."

(b) PRIORITY.—Section 108(d) of the Act (25 U.S.C. 1616a(d)) is amended—

(1) in paragraph (1), by striking out "The" and inserting "Consistent with paragraph (3), the"; and

(2) by adding at the end the following new paragraph:

"(3)(A) Subject to subparagraph (B), of the total amounts appropriated for each of the fiscal years 1993, 1994, and 1995 for loan repayment contracts under this section, the Secretary shall provide that—

"(i) not less than 25 percent be provided to applicants who are nurses, nurse practitioners, or nurse midwives; and

"(ii) not less than 10 percent be provided to applicants who are mental health professionals (other than applicants described in clause (i)).

"(B) The requirements specified in clause (i) or clause (ii) of subparagraph (A) shall not apply if the Secretary does not receive the number of applications from the individuals described in clause (i) or clause (ii), respectively, necessary to meet such requirements."

(c) BECOMING A PARTICIPANT.—Paragraph (1) of section 108(e) (25 U.S.C. 1616a(e)) is amended to read as follows:

"(1) An individual becomes a participant in the Loan Repayment Program only upon the Secretary and the individual entering into a written contract described in subsection (f)."

(d) EXTENSION OF OBLIGATED SERVICE.—Paragraph (2)(A) of section 108(e) (25 U.S.C. 1616a(e)) is amended by inserting before the semicolon the following: ", including extensions resulting in an aggregate period of obligated service in excess of 4 years".

(e) CLARIFICATION REGARDING UNDERGRADUATE LOANS.—Paragraph (1) of section 108(g) (25 U.S.C. 1616a(g)) is amended in the matter preceding subparagraph (A) by striking out "loans received by the individual for—" and inserting in lieu thereof "loans received by the individual regarding the undergraduate or graduate education of the individual (or both), which loans were made for—".

(f) PAYMENT.—Section 108(g)(2)(A) (25 U.S.C. 1616a(g)(2)(A)) is amended to read as follows:

"(2)(A) For each year of obligated service that an individual contracts to serve under subsection (f) the Secretary may pay up to \$35,000 (or an amount equal to the amount specified in section 338B(g)(2)(A) of the Public Health Service Act) on behalf of the individual for loans described in paragraph (1). In making a determination of the amount to pay for a year of such service by an individual, the Secretary shall consider the extent to which each such determination—

"(i) affects the ability of the Secretary to maximize the number of contracts that can be provided under the Loan Repayment Program from the amounts appropriated for such contracts;

"(ii) provides an incentive to serve in Indian health programs with the greatest shortages of health professionals; and

"(iii) provides an incentive with respect to the health professional involved remaining in an Indian health program with such a health professional shortage, and continuing to provide primary health services, after the completion of the period of obligated service under the Loan Repayment Program."

(g) TAX LIABILITY.—(1) Paragraph (3) of section 108(g) (25 U.S.C. 1616a(g)(3)) is amended to read as follows:

"(3) For the purpose of providing reimbursements for tax liability resulting from payments under paragraph (2) on behalf of an individual, the Secretary—

"(A) in addition to such payments, may make payments to the individual in an amount not less than 20 percent and not more than 39 percent of the total amount of loan repayments made for the taxable year involved; and

"(B) may make such additional payments as the Secretary determines to be appropriate with respect to such purpose."

(2) The amendment made by paragraph (1) shall apply only with respect to contracts under section 108 of the Indian Health Care Improvement Act entered into on or after the date of enactment of this Act.

(h) STAFFING NEEDS.—Section 108(k) (25 U.S.C. 1616a(k)) is amended to read as follows:

"(k) The Secretary, in assigning individuals to serve in Indian health programs pursuant to contracts entered into under this section, shall—

"(1) ensure that the staffing needs of Indian health programs administered by an Indian tribe or tribal or health organization receive consideration on an equal basis with programs that are administered directly by the Service; and

"(2) give priority to assigning individuals to Indian health programs that have a need for health professionals to provide health care services as a result of individuals having breached contracts entered into under this section."

(i) ANNUAL REPORT.—Subsection (n) of section 108 is amended to read as follows:

"(n) The Secretary shall submit to the President, for inclusion in each report required to be submitted to the Congress under section 801, a report concerning the previous fiscal year which sets forth—

"(1) the health professional positions maintained by the Service or by tribal or Indian organizations for which recruitment or retention is difficult;

"(2) the number of Loan Repayment Program applications filed with respect to each type of health profession;

"(3) the number of contracts described in subsection (f) that are entered into with respect to each health profession;

"(4) the amount of loan payments made under this section, in total and by health profession;

"(5) the number of scholarship grants that are provided under section 104 with respect to each health profession;

"(6) the amount of scholarship grants provided under section 104, in total and by health profession;

"(7) the number of providers of health care that will be needed by Indian health programs, by location and profession,

25 USC 1616a  
note.

during the three fiscal years beginning after the date the report is filed; and

“(8) the measures the Secretary plans to take to fill the health professional positions maintained by the Service or by tribes or tribal or Indian organizations for which recruitment or retention is difficult.”.

#### SEC. 107. RECRUITMENT ACTIVITIES.

Section 109 of the Act (25 U.S.C. 1616b) is amended—

(1) by amending the heading to read as follows:

“RECRUITMENT ACTIVITIES”; AND

(2) by amending subsection (b) to read as follows:

“(b) The Secretary, acting through the Service, shall assign one individual in each area office to be responsible on a full-time basis for recruitment activities.”.

#### SEC. 108. ADVANCED TRAINING AND RESEARCH.

Section 111 of the Act (25 U.S.C. 1616d) is amended—

(1) in subsection (b), by amending the last sentence to read as follows: “In such event, with respect to individuals entering the program after the date of the enactment of the Indian Health Amendments of 1992, the United States shall be entitled to recover from such individual an amount to be determined in accordance with the formula specified in subsection (l) of section 108 in the manner provided for in such subsection.”; and

(2) by striking out subsection (d).

#### SEC. 109. INMED PROGRAM.

Section 114(b) of the Act (25 U.S.C. 1616g(b)) is amended—

(1) by inserting after “North Dakota,” the following: “to be known as the ‘Quentin N. Burdick Indian Health Programs’”; and

(2) by adding at the end the following: “Such program shall, to the maximum extent feasible, coordinate with the Quentin N. Burdick American Indians Into Psychology Program established under section 217(b) and the Quentin N. Burdick American Indians Into Nursing Program established under section 112(e).”.

#### SEC. 110. SCHOLARSHIP AND LOAN REPAYMENT RECOVERY FUND.

Title I of the Act is amended by inserting after section 108 the following new section:

##### “SCHOLARSHIP AND LOAN REPAYMENT RECOVERY FUND

25 USC 1616a-1.

“SEC. 108A. (a) There is established in the Treasury of the United States a fund to be known as the Indian Health Scholarship and Loan Repayment Recovery Fund (hereafter in this section referred to as the ‘Fund’). The Fund shall consist of such amounts as may be appropriated to the Fund under subsection (b). Amounts appropriated for the Fund shall remain available until expended.

“(b) For each fiscal year, there is authorized to be appropriated to the Fund an amount equal to the sum of—

“(1) the amount collected during the preceding fiscal year by the Federal Government pursuant to—

“(A) the liability of individuals under subparagraph (A) or (B) of section 104(b)(5) for the breach of contracts entered into under section 104; and

“(B) the liability of individuals under section 108(1) for the breach of contracts entered into under section 108; and

“(2) the aggregate amount of interest accruing during the preceding fiscal year on obligations held in the Fund pursuant to subsection (d) and the amount of proceeds from the sale or redemption of such obligations during such fiscal year.

“(c)(1) Amounts in the Fund and available pursuant to appropriation Acts may be expended by the Secretary, acting through the Service, to make payments to an Indian tribe or tribal organization administering a health care program pursuant to a contract entered into under the Indian Self-Determination Act—

“(A) to which a scholarship recipient under section 104 or a loan repayment program participant under section 108 has been assigned to meet the obligated service requirements pursuant to sections; and

“(B) that has a need for a health professional to provide health care services as a result of such recipient or participant having breached the contract entered into under section 104 or section 108.

“(2) An Indian tribe or tribal organization receiving payments pursuant to paragraph (1) may expend the payments to recruit and employ, directly or by contract, health professionals to provide health care services.

“(d)(1) The Secretary of the Treasury shall invest such amounts of the Fund as such Secretary determines are not required to meet current withdrawals from the Fund. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price.

Investments.

“(2) Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.”

#### SEC. 111. COMMUNITY HEALTH AIDE PROGRAM.

Title I of the Act (as amended by section 104 of this Act) is amended by adding at the end the following new section:

##### “COMMUNITY HEALTH AIDE PROGRAM FOR ALASKA

“SEC. 119. (a) Under the authority of the Act of November 2, 1921 (25 U.S.C. 13; popularly known as the Snyder Act), the Secretary shall maintain a Community Health Aide Program in Alaska under which the Service—

25 USC 1616Z.

“(1) provides for the training of Alaska Natives as health aides or community health practitioners;

“(2) uses such aides or practitioners in the provision of health care, health promotion, and disease prevention services to Alaska Natives living in villages in rural Alaska; and

“(3) provides for the establishment of teleconferencing capacity in health clinics located in or near such villages for use by community health aides or community health practitioners.

“(b) The Secretary, acting through the Community Health Aide Program of the Service, shall—



"(1) using trainers accredited by the Program, provide a high standard of training to community health aides and community health practitioners to ensure that such aides and practitioners provide quality health care, health promotion, and disease prevention services to the villages served by the Program;

"(2) in order to provide such training, develop a curriculum that—

"(A) combines education in the theory of health care with supervised practical experience in the provision of health care;

"(B) provides instruction and practical experience in the provision of acute care, emergency care, health promotion, disease prevention, and the efficient and effective management of clinic pharmacies, supplies, equipment, and facilities; and

"(C) promotes the achievement of the health status objectives specified in section 3(b);

Establishment.

"(3) establish and maintain a Community Health Aide Certification Board to certify as community health aides or community health practitioners individuals who have successfully completed the training described in paragraph (1) or can demonstrate equivalent experience;

"(4) develop and maintain a system which identifies the needs of community health aides and community health practitioners for continuing education in the provision of health care, including the areas described in paragraph (2)(B), and develop programs that meet the needs for such continuing education;

"(5) develop and maintain a system that provides close supervision of community health aides and community health practitioners; and

"(6) develop a system under which the work of community health aides and community health practitioners is reviewed and evaluated to assure the provision of quality health care, health promotion, and disease prevention services."

#### SEC. 112. MATCHING GRANTS TO TRIBES.

Title I of the Act (as amended by section 111 of this Act) is amended by adding at the end the following new section:

##### "MATCHING GRANTS TO TRIBES FOR SCHOLARSHIP PROGRAMS

25 USC 1616m.

"SEC. 120. (a)(1) The Secretary shall make grants to Indian tribes and tribal organizations for the purpose of assisting such tribes and tribal organizations in educating Indians to serve as health professionals in Indian communities.

"(2) Amounts available for grants under paragraph (1) for any fiscal year shall not exceed 5 percent of amounts available for such fiscal year for Indian Health Scholarships under section 104.

"(3) An application for a grant under paragraph (1) shall be in such form and contain such agreements, assurances, and information as the Secretary determines are necessary to carry out this section.

"(b)(1) An Indian tribe or tribal organization receiving a grant under subsection (a) shall agree to provide scholarships to Indians pursuing education in the health professions in accordance with the requirements of this section.

"(2) With respect to the costs of providing any scholarship pursuant to paragraph (1)—

"(A) 80 percent of the costs of the scholarship shall be paid from the grant made under subsection (a) to the Indian tribe or tribal organization; and

"(B) 20 percent of such costs shall be paid from non-Federal contributions by the Indian tribe or tribal organization through which the scholarship is provided.

"(3) In determining the amount of non-Federal contributions that have been provided for purposes of subparagraph (B) of paragraph (2), any amounts provided by the Federal Government to the Indian tribe or tribal organization involved or to any other entity shall not be included.

"(4) Non-Federal contributions required by subparagraph (B) of paragraph (2) may be provided directly by the Indian tribe or tribal organization involved or through donations from public and private entities.

"(c) An Indian tribe or tribal organization shall provide scholarships under subsection (b) only to Indians enrolled or accepted for enrollment in a course of study (approved by the Secretary) in one of the health professions described in section 104(a).

"(d) In providing scholarships under subsection (b), the Secretary and the Indian tribe or tribal organization shall enter into a written contract with each recipient of such scholarship. Such contract shall—

Contracts.

"(1) obligate such recipient to provide service in an Indian health program (as defined in section 108(a)(2)(A)), in the same service area where the Indian tribe or tribal organization providing the scholarship is located, for—

"(A) a number of years equal to the number of years for which the scholarship is provided (or the part-time equivalent thereof, as determined by the Secretary), or for a period of 2 years, whichever period is greater; or

"(B) such greater period of time as the recipient and the Indian tribe or tribal organization may agree;

"(2) provide that the amount of such scholarship—

"(A) may be expended only for—

"(i) tuition expenses, other reasonable educational expenses, and reasonable living expenses incurred in attendance at the educational institution; and

"(ii) payment to the recipient of a monthly stipend of not more than the amount authorized by section 338A(g)(1)(B) of the Public Health Service Act (42 U.S.C. 254m(g)(1)(B)), such amount to be reduced pro rata (as determined by the Secretary) based on the number of hours such student is enrolled; and

"(B) may not exceed, for any year of attendance for which the scholarship is provided, the total amount required for the year for the purposes authorized in subparagraph (A);

"(3) require the recipient of such scholarship to maintain an acceptable level of academic standing (as determined by the educational institution in accordance with regulations issued by the Secretary); and

"(4) require the recipient of such scholarship to meet the educational and licensure requirements necessary to be a physi-

cian, certified nurse practitioner, certified nurse midwife, or physician assistant.

"(e)(1) An individual who has entered into a written contract with the Secretary and an Indian tribe or tribal organization under subsection (d) and who—

"(A) fails to maintain an acceptable level of academic standing in the educational institution in which he is enrolled (such level determined by the educational institution under regulations of the Secretary),

"(B) is dismissed from such educational institution for disciplinary reasons,

"(C) voluntarily terminates the training in such an educational institution for which he is provided a scholarship under such contract before the completion of such training, or

"(D) fails to accept payment, or instructs the educational institution in which he is enrolled not to accept payment, in whole or in part, of a scholarship under such contract, in lieu of any service obligation arising under such contract, shall be liable to the United States for the Federal share of the amount which has been paid to him, or on his behalf, under the contract.

"(2) If for any reason not specified in paragraph (1), an individual breaches his written contract by failing either to begin such individual's service obligation required under such contract or to complete such service obligation, the United States shall be entitled to recover from the individual an amount determined in accordance with the formula specified in subsection (1) of section 108 in the manner provided for in such subsection.

"(3) The Secretary may carry out this subsection on the basis of information submitted by the tribes or tribal organizations involved, or on the basis of information collected through such other means as the Secretary determines to be appropriate.

"(f) The recipient of a scholarship under subsection (b) shall agree, in providing health care pursuant to the requirements of subsection (d)(1)—

"(1) not to discriminate against an individual seeking such care on the basis of the ability of the individual to pay for such care or on the basis that payment for such care will be made pursuant to the program established in title XVIII of the Social Security Act or pursuant to the program established in title XIX of such Act; and

"(2) to accept assignment under section 1842(b)(3)(B)(ii) of the Social Security Act for all services for which payment may be made under part B of title XVIII of such Act, and to enter into an appropriate agreement with the State agency that administers the State plan for medical assistance under title XIX of such Act to provide service to individuals entitled to medical assistance under the plan.

"(g) The Secretary may not make any payments under subsection (a) to an Indian tribe or tribal organization for any fiscal year subsequent to the first fiscal year of such payments unless the Secretary determines that, for the immediately preceding fiscal year, the Indian tribe or tribal organization has complied with requirements of this section."

### SEC. 113. TRIBAL HEALTH PROGRAM ADMINISTRATION.

Title I of the Act (as amended by section 112 of this Act) is amended by adding at the end the following new section:

## "TRIBAL HEALTH PROGRAM ADMINISTRATION

"SEC. 121. The Secretary shall, by contract or otherwise, provide training for individuals in the administration and planning of tribal health programs."

Contracts.  
25 USC 1616n.

**SEC. 114. TRIBALLY CONTROLLED VOCATIONAL INSTITUTIONS.**

(a) **NURSING PROGRAM GRANTS.**—Section 112(a)(2) of the Act (25 U.S.C. 1616e(a)(2)) is amended by inserting before the comma the following: "and tribally controlled postsecondary vocational institutions (as defined in section 390(2) of the Tribally Controlled Vocational Institutions Support Act of 1990 (20 U.S.C. 2397h(2)))".

(b) **TRIBAL CULTURE AND HISTORY PROGRAMS.**—Section 113(b)(1) of the Act (25 U.S.C. 1616f(b)(1)) is amended by inserting before the comma "and tribally controlled postsecondary vocational institutions (as defined in section 390(2) of the Tribally Controlled Vocational Institutions Support Act of 1990 (20 U.S.C. 2397h(2)))".

**SEC. 115. CONTINUING EDUCATION ALLOWANCES.**

Section 106(b) of the Act (25 U.S.C. 1615(b)) is amended to read as follows:

"(b) Of amounts appropriated under the authority of this title for each fiscal year to be used to carry out this section, not more than \$1,000,000 may be used to establish postdoctoral training programs for health professionals."

**SEC. 116. UNIVERSITY OF SOUTH DAKOTA MODEL HEALTH PROGRAM.**

Title I of the Act (as amended by section 113 of this Act) is amended by adding at the end the following new section:

**"UNIVERSITY OF SOUTH DAKOTA PILOT PROGRAM**

"SEC. 122. (a) The Secretary may make a grant to the School of Medicine of the University of South Dakota (hereafter in this section referred to as 'USDSM') to establish a pilot program on an Indian reservation at one or more service units in South Dakota to address the chronic manpower shortage in the Aberdeen Area of the Service.

25 USC 1616o.

"(b) The purposes of the program established pursuant to a grant provided under subsection (a) are—

"(1) to provide direct clinical and practical experience at a service unit to medical students and residents from USDSM and other medical schools;

"(2) to improve the quality of health care for Indians by assuring access to qualified health care professionals; and

"(3) to provide academic and scholarly opportunities for physicians, physician assistants, nurse practitioners, nurses, and other allied health professionals serving Indian people by identifying and utilizing all academic and scholarly resources of the region.

"(c) The pilot program established pursuant to a grant provided under subsection (a) shall—

"(1) incorporate a program advisory board composed of representatives from the tribes and communities in the area which will be served by the program; and

"(2) shall be designated as an extension of the USDSM campus and program participants shall be under the direct supervision and instruction of qualified medical staff serving at the service unit who shall be members of the USDSM faculty.

“(d) The USDSM shall coordinate the program established pursuant to a grant provided under subsection (a) with other medical schools in the region, nursing schools, tribal community colleges, and other health professional schools.

“(e) The USDSM, in cooperation with the Service, shall develop additional professional opportunities for program participants on Indian reservations in order to improve the recruitment and retention of qualified health professionals in the Aberdeen Area of the Service.”.

#### SEC. 117. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—Title I of the Act (as amended by section 116 of this Act) is amended by adding at the end the following new section:

##### “AUTHORIZATION OF APPROPRIATIONS

25 USC 1616p.

“SEC. 123. There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2000 to carry out this title.”.

25 USC 1612.

25 USC 1614.

25 USC 1616a.

25 USC 1616c.

25 USC 1616f.

25 USC 1616g.

25 USC 1616h.

25 USC 1616i.

(b) CONFORMING AMENDMENTS.—Title I of the Act is amended—

- (1) in section 102, by striking out subsection (c);
- (2) in section 105, by striking out subsection (d);
- (3) in section 108, by striking out subsection (o);
- (4) in section 110, by striking out subsection (c);
- (5) in section 113, by striking out subsection (c);
- (6) in section 114, by striking out subsection (e);
- (7) in section 115, by striking out subsection (f); and
- (8) in section 116, by striking out subsection (e).

## TITLE II—HEALTH SERVICES

#### SEC. 201. INDIAN HEALTH CARE IMPROVEMENT FUND.

(a) IN GENERAL.—Section 201 of the Act (25 U.S.C. 1621) is amended—

(1) in subsection (a)—

(A) in the material preceding paragraph (1), by striking out “subsection (h)” and inserting in lieu thereof “this section”;

(B) by amending paragraph (1) to read as follows: “(1) eliminating the deficiencies in health status and resources of all Indian tribes,”; and

(C) in paragraph (4), in the material preceding subparagraph (A)—

(i) by inserting after “responsibilities” the following: “, either through direct or contract care or through contracts entered into pursuant to the Indian Self-Determination Act,”; and

(ii) by striking out “resources deficiency” and inserting in lieu thereof the following: “status and resource deficiencies”;

(2) in subsection (b)—

(A) in paragraph (1), by striking out “subsection (h)” and inserting in lieu thereof “this section”;

(B) by striking out paragraph (2) and redesignating paragraph (3) as paragraph (2); and

(C) in paragraph (2)(A) (as redesignated by subparagraph (B))—

(i) by striking out “subsection (h)” and inserting in lieu thereof “this section”;

(ii) in the first sentence, by striking out “but such allocation” through “met”;

(iii) in the second sentence—

(I) by striking out “(in accordance with paragraph (2))”; and

(II) by striking out “raise the deficiency level” and inserting in lieu thereof the following: “reduce the health status and resource deficiency”; and

(D) in paragraph (2)(B) (as redesignated by subparagraph (B)), by inserting after “consultation with” the following: “, and with the active participation of”;

(3) in subsection (c)—

(A) by striking out paragraph (1) and redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively;

(B) by amending paragraph (1) (as redesignated by subparagraph (A) above) to read as follows:

“(1) The term ‘health status and resource deficiency’ means the extent to which—

“(A) the health status objectives set forth in section 3(b) are not being achieved; and

“(B) the Indian tribe does not have available to it the health resources it needs, taking into account the actual cost of providing health care services given local geographic, climatic, rural, or other circumstances.”; and

(C) in paragraph (3) (as redesignated by subparagraph (A) above)—

(i) by striking out “Under regulations, the” and inserting in lieu thereof “The”; and

(ii) by striking out “health resources deficiency level” and inserting in lieu thereof “extent of the health status and resource deficiency”;

(4) in subsection (d)(1), by striking out “subsection (h)” and inserting in lieu thereof “this section”;

(5) in subsection (e)—

(A) in the material preceding paragraph (1)—

(i) by striking out “60 days” and inserting in lieu thereof “3 years”;

(ii) by striking out “Indian Health Care Amendments of 1988” and inserting in lieu thereof “Indian Health Amendments of 1992”; and

(iii) by striking out “health services priority system” and inserting in lieu thereof “health status and resource deficiency”;

(B) in paragraph (1), by striking out “health resources deficiencies” and inserting in lieu thereof “health status and resource deficiencies”;

(C) in paragraph (2), by striking out “the level of health resources deficiency for” and inserting in lieu thereof the following: “the extent of the health status and resource deficiency of”;

(D) in paragraph (3), by striking “raise all” and all that follows through the semicolon and insert in lieu thereof

the following: "eliminate the health status and resource deficiencies of all Indian tribes served by the Service; and"; and

(E) by striking out paragraphs (4) and (5) and redesignating paragraph (6) as paragraph (4); and

(6) in subsection (f), by striking out "(f)(1)" and all that follows through the paragraph designation for paragraph (2) and inserting in lieu thereof "(f)".

25 USC 1621  
note.

(b) **EFFECTIVE DATE.**—Except with respect to the amendments made by subsection (a)(5), the amendments made by subsection (a) shall take effect three years after the date of the enactment of this Act. The amendments made by subsection (a)(5) shall take effect upon the date of the enactment of this Act.

(c) **TECHNICAL AMENDMENT.**—The heading for section 201 of the Act (25 U.S.C. 1621) is amended to read as follows:

"INDIAN HEALTH CARE IMPROVEMENT FUND".

#### **SEC. 202. CATASTROPHIC HEALTH EMERGENCY FUND.**

(a) **IN GENERAL.**—Section 202 of the Act (25 U.S.C. 1621a) is amended—

(1) in subsection (a)(1)(B), by striking out "under subsection (e)" and inserting in lieu thereof "to the Fund under this section";

(2) in subsection (b)(2), by striking out "shall establish at not less than \$10,000 or not more than \$20,000;" and inserting in lieu thereof the following: "shall establish at—

"(A) for 1993, not less than \$15,000 or not more than \$25,000; and

"(B) for any subsequent year, not less than the threshold cost of the previous year increased by the percentage increase in the medical care expenditure category of the consumer price index for all urban consumers (United States city average) for the 12-month period ending with December of the previous year;" and

(3) in subsection (c), by striking out "Funds appropriated under subsection (e)" and inserting in lieu thereof "Amounts appropriated to the Fund under this section".

25 USC 1621a  
note.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a)(2) shall take effect January 1, 1993.

#### **SEC. 203. HEALTH PROMOTION AND DISEASE PREVENTION.**

Section 203 of the Act (25 U.S.C. 1621b) is amended—

(1) in subsection (a), by inserting before the period at the end the following: "so as to achieve the health status objectives set forth in section 3(b)";

(2) in subsection (b), in the material preceding paragraph (1), by striking out "section 201(f)" and inserting in lieu thereof "section 801"; and

(3) by striking out subsection (c).

#### **SEC. 204. DIABETES PREVENTION, TREATMENT, AND CONTROL.**

Section 204 of the Act (25 U.S.C. 1621c) is amended—

(1) by amending subsection (c) to read as follows:

"(c)(1) The Secretary shall continue to maintain through fiscal year 2000 each model diabetes project in existence on the date of the enactment of the Indian Health Amendments of 1992 and located—

- “(A) at the Claremore Indian Hospital in Oklahoma;
- “(B) at the Fort Totten Health Center in North Dakota;
- “(C) at the Sacaton Indian Hospital in Arizona;
- “(D) at the Winnebago Indian Hospital in Nebraska;
- “(E) at the Albuquerque Indian Hospital in New Mexico;
- “(F) at the Perry, Princeton, and Old Town Health Centers in Maine;
- “(G) at the Bellingham Health Center in Washington;
- “(H) at the Fort Berthold Reservation;
- “(I) at the Navajo Reservation;
- “(J) at the Papago Reservation;
- “(K) at the Zuni Reservation; or
- “(L) in the States of Alaska, California, Minnesota, Montana, Oregon, or Utah.

“(2) The Secretary may establish new model diabetes projects under this section taking into consideration applications received under this section from all service areas, except that the Secretary may not establish a greater number of such projects in one service area than in any other service area until there is an equal number of such projects established with respect to all service areas from which the Secretary receives qualified applications during the application period (as determined by the Secretary).”; and

(2) in subsection (d)—

(A) in paragraph (2), by striking out “and” after the semicolon;

(B) in paragraph (3), by striking out the period and inserting in lieu thereof the following: “; and”; and

(C) by adding at the end the following new paragraph:

“(4) evaluate the effectiveness of services provided through model diabetes projects established under this section.”.

#### SEC. 205. MENTAL HEALTH PREVENTION AND TREATMENT SERVICES.

Section 209 of the Act (25 U.S.C. 1621h) is amended—

(1) in subsection (j) (as redesignated by section 902(3)(B) of this Act), by striking out “submit to the Congress an annual report” and inserting in lieu thereof the following: “submit to the President, for inclusion in each report required to be transmitted to the Congress under section 801, a report”; and

(2) by adding at the end the following new subsections:

“(1) LICENSING REQUIREMENT FOR MENTAL HEALTH CARE WORKERS.—Any person employed as a psychologist, social worker, or marriage and family therapist for the purpose of providing mental health care services to Indians in a clinical setting under the authority of this Act or through a contract pursuant to the Indian Self-Determination Act shall—

“(1) in the case of a person employed as a psychologist, be licensed as a clinical psychologist or working under the direct supervision of a licensed clinical psychologist;

“(2) in the case of a person employed as a social worker, be licensed as a social worker or working under the direct supervision of a licensed social worker; or

“(3) in the case of a person employed as a marriage and family therapist, be licensed as a marriage and family therapist or working under the direct supervision of a licensed marriage and family therapist.

“(m) INTERMEDIATE ADOLESCENT MENTAL HEALTH SERVICES.—

(1) The Secretary, acting through the Service, may make grants

Reports.



to Indian tribes and tribal organizations to provide intermediate mental health services to Indian children and adolescents, including—

- “(A) inpatient and outpatient services;
- “(B) emergency care;
- “(C) suicide prevention and crisis intervention; and
- “(D) prevention and treatment of mental illness, and dysfunctional and self-destructive behavior, including child abuse and family violence.

“(2) Funds provided under this subsection may be used—

“(A) to construct or renovate an existing health facility to provide intermediate mental health services;

“(B) to hire mental health professionals;

“(C) to staff, operate, and maintain an intermediate mental health facility, group home, or youth shelter where intermediate mental health services are being provided; and

“(D) to make renovations and hire appropriate staff to convert existing hospital beds into adolescent psychiatric units.

“(3) Funds provided under this subsection may not be used for the purposes described in section 216(b)(1).

“(4) An Indian tribe or tribal organization receiving a grant under this subsection shall ensure that intermediate adolescent mental health services are coordinated with other tribal, Service, and Bureau of Indian Affairs mental health, alcohol and substance abuse, and social services programs on the reservation of such tribe or tribal organization.

“(5) The Secretary shall establish criteria for the review and approval of applications for grants made pursuant to this subsection.

“(6) There are authorized to be appropriated to carry out this section \$10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.”

#### SEC. 206. NEW STUDIES AND DEMONSTRATION PROGRAM.

(a) HOSPICE CARE.—Title II of the Act is amended by inserting after section 204 the following:

##### “HOSPICE CARE FEASIBILITY STUDY

25 USC 1621d.

“SEC. 205. (a) The Secretary, acting through the Service and in consultation with representatives of Indian tribes, tribal organizations, Indian Health Service personnel, and hospice providers, shall conduct a study—

“(1) to assess the feasibility and desirability of furnishing hospice care to terminally ill Indians; and

“(2) to determine the most efficient and effective means of furnishing such care.

“(b) Such study shall—

“(1) assess the impact of Indian culture and beliefs concerning death and dying on the provision of hospice care to Indians;

“(2) estimate the number of Indians for whom hospice care may be appropriate and determine the geographic distribution of such individuals;

“(3) determine the most appropriate means to facilitate the participation of Indian tribes and tribal organizations in providing hospice care;

"(4) identify and evaluate various means for providing hospice care, including—

"(A) the provision of such care by the personnel of a Service hospital pursuant to a hospice program established by the Secretary at such hospital; and

"(B) the provision of such care by a community-based hospice program under contract to the Service; and

"(5) identify and assess any difficulties in furnishing such care and the actions needed to resolve such difficulties.

"(c) Not later than the date which is 12 months after the date of the enactment of this section, the Secretary shall transmit to the Congress a report containing— Reports.

"(1) a detailed description of the study conducted pursuant to this section; and

"(2) a discussion of the findings and conclusions of such study.

"(d) For the purposes of this section—

"(1) the term 'terminally ill' means any Indian who has a medical prognosis (as certified by a physician) of a life expectancy of six months or less; and

"(2) the term 'hospice program' means any program which satisfies the requirements of section 1861(dd)(2) of the Social Security Act (42 U.S.C. 1395x(dd)(2)); and

"(3) the term 'hospice care' means the items and services specified in subparagraphs (A) through (H) of section 1861(dd)(1) of the Social Security Act (42 U.S.C. 1395x(dd)(1))."

(b) MANAGED CARE.—Title II of the Act is amended by adding at the end the following new section:

"MANAGED CARE FEASIBILITY STUDY

"SEC. 210. (a) The Secretary, acting through the Service, shall conduct a study to assess the feasibility of allowing an Indian tribe to purchase, directly or through the Service, managed care coverage for all members of the tribe from— 25 USC 1621i.

"(1) a tribally owned and operated managed care plan;

or

"(2) a State licensed managed care plan.

"(b) Not later than the date which is 12 months after the date of the enactment of this section, the Secretary shall transmit to the Congress a report containing— Reports.

"(1) a detailed description of the study conducted pursuant to this section; and

"(2) a discussion of the findings and conclusions of such study."

(c) CONTRACT CARE.—Title II of the Act (as amended by subsection (b) of this Act) is amended by adding at the end the following new section:

"CALIFORNIA CONTRACT HEALTH SERVICES DEMONSTRATION PROGRAM

"SEC. 211. (a) The Secretary shall establish a demonstration program to evaluate the use of a contract care intermediary to improve the accessibility of health services to California Indians. 25 USC 1621j.

"(b)(1) In establishing such program, the Secretary shall enter into an agreement with the California Rural Indian Health Board to reimburse the Board for costs (including reasonable administrative costs) incurred, during the period of the demonstration pro-

gram, in providing medical treatment under contract to California Indians described in section 809(b) throughout the California contract health services delivery area described in section 810 with respect to high-cost contract care cases.

"(2) Not more than 5 percent of the amounts provided to the Board under this section for any fiscal year may be for reimbursement for administrative expenses incurred by the Board during such fiscal year.

"(3) No payment may be made for treatment provided under the demonstration program to the extent payment may be made for such treatment under the Catastrophic Health Emergency Fund described in section 202 or from amounts appropriated or otherwise made available to the California contract health service delivery area for a fiscal year.

Establishment.

"(c) There is hereby established an advisory board which shall advise the California Rural Indian Health Board in carrying out the demonstration pursuant to this section. The advisory board shall be composed of representatives, selected by the California Rural Indian Health Board, from not less than 8 tribal health programs serving California Indians covered under such demonstration, at least one half of whom are not affiliated with the California Rural Indian Health Board.

Effective date.  
Termination  
date.  
Reports.

"(d) The demonstration program described in this section shall begin on January 1, 1993, and shall terminate on September 30, 1997.

"(e) Not later than July 1, 1998, the California Rural Indian Health Board shall submit to the Secretary a report on the demonstration program carried out under this section, including a statement of its findings regarding the impact of using a contract care intermediary on—

"(1) access to needed health services;

"(2) waiting periods for receiving such services; and

"(3) the efficient management of high-cost contract care cases.

"(f) For the purposes of this section, the term 'high-cost contract care cases' means those cases in which the cost of the medical treatment provided to an individual—

"(1) would otherwise be eligible for reimbursement from the Catastrophic Health Emergency Fund established under section 202, except that the cost of such treatment does not meet the threshold cost requirement established pursuant to section 202(b)(2); and

"(2) exceeds \$1,000.

"(g) There are authorized to be appropriated for each of the fiscal years 1993, 1994, 1995, 1996, and 1997 such sums as may be necessary to carry out the purposes of this section."

#### SEC. 207. COVERAGE OF SCREENING MAMMOGRAPHY.

(a) IN GENERAL.—Title II of the Act (as amended by section 206(c) of this Act) is amended by adding at the end the following new section:

#### "COVERAGE OF SCREENING MAMMOGRAPHY

25 USC 1621k.

"SEC. 212. The Secretary, through the Service, shall provide for screening mammography (as defined in section 1861(jj) of the Social Security Act) for Indian and urban Indian women 35 years of age or older at a frequency, determined by the Secretary (in

consultation with the Director of the National Cancer Institute), appropriate to such women, and under such terms and conditions as are consistent with standards established by the Secretary to assure the safety and accuracy of screening mammography under part B of title XVIII of the Social Security Act.”

(b) CONFORMING AMENDMENT.—Section 201(a)(4)(B) of the Act (25 U.S.C. 1621(a)(4)(B)) is amended by striking the semicolon at the end and inserting the following: “, including screening mammography in accordance with section 212;”.

#### SEC. 208. PATIENT TRAVEL COSTS.

Title II of the Act (as amended by section 207 of this Act) is amended by adding at the end the following new section:

##### “PATIENT TRAVEL COSTS

“SEC. 213. (a) The Secretary, acting through the Service, shall provide funds for the following patient travel costs associated with receiving health care services provided (either through direct or contract care or through contracts entered into pursuant to the Indian Self-Determination Act) under this Act— 25 USC 1621I.

“(1) emergency air transportation; and

“(2) nonemergency air transportation where ground transportation is infeasible.

“(b) There are authorized to be appropriated to carry out this section \$15,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.”.

#### SEC. 209. THIRD PARTY REIMBURSEMENT.

(a) RECOVERY BY INDIAN TRIBE.—Section 206 of the Act (25 U.S.C. 1621e) is amended—

(1) by inserting “, an Indian tribe, or a tribal organization” after “United States” each place it appears;

(2) in subsection (a), by inserting “, an Indian tribe, or a tribal organization” after “Service”;

(3) in subsection (a) and subsection (e)(1)(A), by inserting “, an Indian tribe, or a tribal organization” after “Secretary” each place it appears; and

(4) in subsection (b), by striking “, or any political subdivision of a State,”.

(b) SPECIAL RULE WITH RESPECT TO SELF-INSURANCE PLAN.—Section 206 of the Act (25 U.S.C. 1621e) is amended—

(1) by striking “(a) The” and inserting the following: “(a) Except as provided in subsection (f), the”; and

(2) by adding at the end the following new subsection:

“(f) The United States shall not have a right of recovery under this section if the injury, illness, or disability for which health services were provided is covered under a self-insurance plan funded by an Indian tribe or tribal organization.”.

#### SEC. 210. EPIDEMIOLOGY CENTERS.

Title II of the Act (as amended by section 208 of this Act) is amended by adding at the end the following new section:

## "EPIDEMIOLOGY CENTERS

Establishment.  
25 USC 1621m.

"SEC. 214. (a)(1) The Secretary shall establish an epidemiology center in each Service area to carry out the functions described in paragraph (3).

"(2) To assist such centers in carrying out such functions, the Secretary shall perform the following:

"(A) In consultation with the Centers for Disease Control and Indian tribes, develop sets of data (which to the extent practicable, shall be consistent with the uniform data sets used by the States with respect to the year 2000 health objectives) for uniformly defining health status for purposes of the objectives specified in section 3(b). Such sets shall consist of one or more categories of information. The Secretary shall develop formats for the uniform collecting and reporting of information on such categories.

"(B) Establish and maintain a system for monitoring the progress made toward meeting each of the health status objectives described in section 3(b).

"(3) In consultation with Indian tribes and urban Indian communities, each area epidemiology center established under this subsection shall, with respect to such area—

"(A) collect data relating to, and monitor progress made toward meeting, each of the health status objectives described in section 3(b) using the data sets and monitoring system developed by the Secretary pursuant to paragraph (2);

"(B) evaluate existing delivery systems, data systems, and other systems that impact the improvement of Indian health;

"(C) assist tribes and urban Indian communities in identifying their highest priority health status objectives and the services needed to achieve such objectives, based on epidemiological data;

"(D) make recommendations for the targeting of services needed by tribal, urban, and other Indian communities;

"(E) make recommendations to improve health care delivery systems for Indians and urban Indians;

"(F) work cooperatively with tribal providers of health and social services in order to avoid duplication of existing services; and

"(G) provide technical assistance to Indian tribes and urban Indian organizations in the development of local health service priorities and incidence and prevalence rates of disease and other illness in the community.

"(4) Epidemiology centers established under this subsection shall be subject to the provisions of the Indian Self-Determination Act (25 U.S.C. 450f et seq.).

"(5) The director of the Centers for Disease Control shall provide technical assistance to the centers in carrying out the requirements of this subsection.

"(6) The Service shall assign one epidemiologist from each of its area offices to each area epidemiology center to provide such center with technical assistance necessary to carry out this subsection.

"(b)(1) The Secretary may make grants to Indian tribes, tribal organizations, and eligible intertribal consortia or Indian organizations to conduct epidemiological studies of Indian communities.

"(2) An intertribal consortia or Indian organization is eligible to receive a grant under this subsection if—

"(A) it is incorporated for the primary purpose of improving Indian health; and

"(B) it is representative of the tribes or urban Indian communities in which it is located.

"(3) An application for a grant under this subsection shall be submitted in such manner and at such time as the Secretary shall prescribe.

"(4) Applicants for grants under this subsection shall—

"(A) demonstrate the technical, administrative, and financial expertise necessary to carry out the functions described in paragraph (5);

"(B) consult and cooperate with providers of related health and social services in order to avoid duplication of existing services; and

"(C) demonstrate cooperation from Indian tribes or urban Indian organizations in the area to be served.

"(5) A grant awarded under paragraph (1) may be used to—

"(A) carry out the functions described in subsection (a)(3);

"(B) provide information to and consult with tribal leaders, urban Indian community leaders, and related health staff, on health care and health services management issues; and

"(C) provide, in collaboration with tribes and urban Indian communities, the Service with information regarding ways to improve the health status of Indian people.

"(6) There are authorized to be appropriated to carry out the purposes of this subsection not more than \$12,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000."

#### **SEC. 211. COMPREHENSIVE SCHOOL HEALTH EDUCATION PROGRAMS.**

Title II of the Act (as amended by section 210 of this Act) is amended by adding at the end the following new section:

##### **"COMPREHENSIVE SCHOOL HEALTH EDUCATION PROGRAMS**

"SEC. 215. (a) The Secretary, acting through the Service and in consultation with the Secretary of the Interior, may award grants to Indian tribes to develop comprehensive school health education programs for children from preschool through grade 12 in schools located on Indian reservations.

25 USC 1621n.

"(b) Grants awarded under this section may be used to—

"(1) develop health education curricula;

"(2) train teachers in comprehensive school health education curricula;

"(3) integrate school-based, community-based, and other public and private health promotion efforts;

"(4) encourage healthy, tobacco-free school environments;

"(5) coordinate school-based health programs with existing services and programs available in the community;

"(6) develop school programs on nutrition education, personal health, and fitness;

"(7) develop mental health wellness programs;

"(8) develop chronic disease prevention programs;

"(9) develop substance abuse prevention programs;

"(10) develop accident prevention and safety education programs;

"(11) develop activities for the prevention and control of communicable diseases; and

"(12) develop community and environmental health education programs.

"(c) The Secretary shall provide technical assistance to Indian tribes in the development of health education plans, and the dissemination of health education materials and information on existing health programs and resources.

"(d) The Secretary shall establish criteria for the review and approval of applications for grants made pursuant to this section.

Reports.

"(e) Recipients of grants under this section shall submit to the Secretary an annual report on activities undertaken with funds provided under this section. Such reports shall include a statement of—

"(1) the number of preschools, elementary schools, and secondary schools served;

"(2) the number of students served;

"(3) any new curricula established with funds provided under this section;

"(4) the number of teachers trained in the health curricula; and

"(5) the involvement of parents, members of the community, and community health workers in programs established with funds provided under this section.

"(f)(1) The Secretary of the Interior, acting through the Bureau of Indian Affairs and in cooperation with the Secretary, shall develop a comprehensive school health education program for children from preschool through grade 12 in schools operated by the Bureau of Indian Affairs.

"(2) Such program shall include—

"(A) school programs on nutrition education, personal health, and fitness;

"(B) mental health wellness programs;

"(C) chronic disease prevention programs;

"(D) substance abuse prevention programs;

"(E) accident prevention and safety education programs; and

"(F) activities for the prevention and control of communicable diseases.

"(3) The Secretary of the Interior shall—

"(A) provide training to teachers in comprehensive school health education curricula;

"(B) ensure the integration and coordination of school-based programs with existing services and health programs available in the community; and

"(C) encourage healthy, tobacco-free school environments.

"(g) There are authorized to be appropriated to carry out this section \$15,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000."

#### SEC. 212. INDIAN YOUTH GRANT PROGRAM.

Title II of the Act (as amended by section 211 of this Act) is amended by adding at the end the following new section:

## "INDIAN YOUTH GRANT PROGRAM

"SEC. 216. (a) The Secretary, acting through the Service, is authorized to make grants to Indian tribes, tribal organizations, and urban Indian organizations for innovative mental and physical disease prevention and health promotion and treatment programs for Indian preadolescent and adolescent youths. 25 USC 1621a.

"(b)(1) Funds made available under this section may be used to—

"(A) develop prevention and treatment programs for Indian youth which promote mental and physical health and incorporate cultural values, community and family involvement, and traditional healers; and

"(B) develop and provide community training and education.

"(2) Funds made available under this section may not be used to provide services described in section 209(m).

"(c) The Secretary shall—

"(1) disseminate to Indian tribes information regarding models for the delivery of comprehensive health care services to Indian and urban Indian adolescents;

"(2) encourage the implementation of such models; and

"(3) at the request of an Indian tribe, provide technical assistance in the implementation of such models.

"(d) The Secretary shall establish criteria for the review and approval of applications under this section.

"(e) There are authorized to be appropriated to carry out this section \$5,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000."

**SEC. 213. AMERICAN INDIANS INTO PSYCHOLOGY PROGRAM.**

Title II of the Act (as amended by section 212 of this Act) is amended by adding at the end the following new section:

## "AMERICAN INDIANS INTO PSYCHOLOGY PROGRAM

"SEC. 217. (a) The Secretary may provide grants to at least 3 colleges and universities for the purpose of developing and maintaining American Indian psychology career recruitment programs as a means of encouraging Indians to enter the mental health field. 25 USC 1621p.

"(b) The Secretary shall provide one of the grants authorized under subsection (a) to develop and maintain a program at the University of North Dakota to be known as the 'Quentin N. Burdick American Indians Into Psychology Program'. Such program shall, to the maximum extent feasible, coordinate with the Quentin N. Burdick Indian Health Programs authorized under section 114(b), the Quentin N. Burdick American Indians Into Nursing Program authorized under section 112(e), and existing university research and communications networks. Grants.

"(c)(1) The Secretary shall issue regulations for the competitive awarding of the grants provided under this section. Regulations.

"(2) Applicants for grants under this section shall agree to provide a program which, at a minimum—

"(A) provides outreach and recruitment for health professions to Indian communities including elementary, secondary



and community colleges located on Indian reservations that will be served by the program;

“(B) incorporates a program advisory board comprised of representatives from the tribes and communities that will be served by the program;

“(C) provides summer enrichment programs to expose Indian students to the varied fields of psychology through research, clinical, and experiential activities;

“(D) provides stipends to undergraduate and graduate students to pursue a career in psychology;

“(E) develops affiliation agreements with tribal community colleges, the Service, university affiliated programs, and other appropriate entities to enhance the education of Indian students;

“(F) to the maximum extent feasible, utilizes existing university tutoring, counseling and student support services; and

“(G) to the maximum extent feasible, employs qualified Indians in the program.

“(d) The active duty service obligation prescribed under section 338C of the Public Health Service Act (42 U.S.C. 254m) shall be met by each graduate student who receives a stipend described in subsection (c)(2)(D) that is funded by a grant provided under this section. Such obligation shall be met by service—

“(1) in the Indian Health Service;

“(2) in a program conducted under a contract entered into under the Indian Self-Determination Act;

“(3) in a program assisted under title V of this Act; or

“(4) in the private practice of psychology if, as determined by the Secretary, in accordance with guidelines promulgated by the Secretary, such practice is situated in a physician or other health professional shortage area and addresses the health care needs of a substantial number of Indians.”.

#### **SEC. 214. PREVENTION, CONTROL, AND ELIMINATION OF TUBERCULOSIS.**

Title II of the Act (as amended by section 213 of this Act) is amended by adding at the end the following new section:

##### **“PREVENTION, CONTROL, AND ELIMINATION OF TUBERCULOSIS**

25 USC 1621q.

“SEC. 218. (a) The Secretary, acting through the Service after consultation with the Centers for Disease Control, may make grants to Indian tribes and tribal organizations for—

“(1) projects for the prevention, control, and elimination of tuberculosis;

“(2) public information and education programs for the prevention, control, and elimination of tuberculosis; and

“(3) education, training, and clinical skills improvement activities in the prevention, control, and elimination of tuberculosis for health professionals, including allied health professionals.

“(b) The Secretary may make a grant under subsection (a) only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains the assurances required by subsection (c) and such other agreements, assurances, and information as the Secretary may require.

"(c) To be eligible for a grant under subsection (a), an applicant must provide assurances satisfactory to the Secretary that—

"(1) the applicant will coordinate its activities for the prevention, control, and elimination of tuberculosis with activities of the Centers for Disease Control, and State and local health agencies; and

"(2) the applicant will submit to the Secretary an annual report on its activities for the prevention, control, and elimination of tuberculosis. Reports.

"(d) In carrying out this section, the Secretary—

"(1) shall establish criteria for the review and approval of applications for grants under subsection (a), including requirement of public health qualifications of applicants;

"(2) shall, subject to available appropriations, make at least one grant under subsection (a) within each area office;

"(3) may, at the request of an Indian tribe or tribal organization, provide technical assistance; and

"(4) shall prepare and submit a report to the Committee on Energy and Commerce and the Committee on Interior and Insular Affairs of the House and the Select Committee on Indian Affairs of the Senate not later than February 1, 1994, and biennially thereafter, on the use of funds under this section and on the progress made toward the prevention, control, and elimination of tuberculosis among Indian tribes and tribal organizations. Reports.

"(e) The Secretary may, at the request of a recipient of a grant under subsection (a), reduce the amount of such grant by—

"(1) the fair market value of any supplies or equipment furnished the grant recipient; and

"(2) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the grant recipient and the amount of any other costs incurred in connection with the detail of such officer or employee,

when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of and at the request of such grant recipient and for the purpose of carrying out a program with respect to which the grant under subsection (a) is made. The amount by which any such grant is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment, or in detailing the personnel, on which the reduction of such grant is based, and such amount shall be deemed as part of the grant and shall be deemed to have been paid to the grant recipient."

#### SEC. 215. CONTRACT HEALTH SERVICES.

Title II of the Act (as amended by section 214 of this Act) is amended by adding at the end the following new sections:

##### "CONTRACT HEALTH SERVICES PAYMENT STUDY

"SEC. 219. (a) The Secretary, acting through the Service and in consultation with representatives of Indian tribes and tribal organizations operating contract health care programs under the Indian Self-Determination Act (25 U.S.C. 450f et seq.) or under self-governance compacts, Service personnel, private contract health services providers, the Indian Health Service Fiscal Intermediary, and other appropriate experts, shall conduct a study— 25 USC 1621r.

"(1) to assess and identify administrative barriers that hinder the timely payment for services delivered by private contract health services providers to individual Indians by the Service and the Indian Health Service Fiscal Intermediary;

"(2) to assess and identify the impact of such delayed payments upon the personal credit histories of individual Indians who have been treated by such providers; and

"(3) to determine the most efficient and effective means of improving the Service's contract health services payment system and ensuring the development of appropriate consumer protection policies to protect individual Indians who receive authorized services from private contract health services providers from billing and collection practices, including the development of materials and programs explaining patients' rights and responsibilities.

"(b) The study required by subsection (a) shall—

"(1) assess the impact of the existing contract health services regulations and policies upon the ability of the Service and the Indian Health Service Fiscal Intermediary to process, on a timely and efficient basis, the payment of bills submitted by private contract health services providers;

"(2) assess the financial and any other burdens imposed upon individual Indians and private contract health services providers by delayed payments;

"(3) survey the policies and practices of collection agencies used by contract health services providers to collect payments for services rendered to individual Indians;

"(4) identify appropriate changes in Federal policies, administrative procedures, and regulations, to eliminate the problems experienced by private contract health services providers and individual Indians as a result of delayed payments; and

"(5) compare the Service's payment processing requirements with private insurance claims processing requirements to evaluate the systemic differences or similarities employed by the Service and private insurers.

**Reports.**

"(c) Not later than 12 months after the date of the enactment of this section, the Secretary shall transmit to the Congress a report that includes—

"(1) a detailed description of the study conducted pursuant to this section; and

"(2) a discussion of the findings and conclusions of such study.

**"PROMPT ACTION ON PAYMENT OF CLAIMS**

**25 USC 1621s.**

"SEC. 220. (a) The Service shall respond to a notification of a claim by a provider of a contract care service with either an individual purchase order or a denial of the claim within 5 working days after the receipt of such notification.

"(b) If the Service fails to respond to a notification of a claim in accordance with subsection (a), the Service shall accept as valid the claim submitted by the provider of a contract care service.

"(c) The Service shall pay a completed contract care service claim within 30 days after completion of the claim.

"DEMONSTRATION OF ELECTRONIC CLAIMS PROCESSING

"SEC. 221. (a) Not later than June 15, 1993, the Secretary shall develop and implement, directly or by contract, 2 projects to demonstrate in a pilot setting the use of claims processing technology to improve the accuracy and timeliness of the billing for, and payment of, contract health services. 25 USC 1621t.

"(b) The Secretary shall conduct one of the projects authorized in subsection (a) in the Service area served by the area office located in Phoenix, Arizona. Arizona.

"LIABILITY FOR PAYMENT

"SEC. 222. (a) A patient who receives contract health care services that are authorized by the Service shall not be liable for the payment of any charges or costs associated with the provision of such services. 25 USC 1621u.

"(b) The Secretary shall notify a contract care provider and any patient who receives contract health care services authorized by the Service that such patient is not liable for the payment of any charges or costs associated with the provision of such services."

**SEC. 216. OFFICE OF WOMEN'S INDIAN HEALTH CARE.**

Title II of the Act (as amended by section 215 of this Act) is amended by adding at the end the following new section:

"OFFICE OF INDIAN WOMEN'S HEALTH CARE

"SEC. 223. There is established within the Service an Office of Indian Women's Health Care to oversee efforts of the Service to monitor and improve the quality of health care for Indian women of all ages through the planning and delivery of programs administered by the Service, in order to improve and enhance the treatment models of care for Indian women." Establishment.  
25 USC 1621v.

**SEC. 217. AUTHORIZATION OF APPROPRIATIONS.**

(a) AUTHORIZATION.—Title II of the Act (as amended by section 216 of this Act) is amended by adding at the end the following new section:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 224. Except as provided in sections 209(m), 211, 213, 214(b)(5), 215, and 216, there are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2000 to carry out this title." 25 USC 1621w.

(b) CONFORMING AMENDMENTS.—Title II of the Act is amended—

(1) in section 201(h), by striking out the first sentence and striking out "subsection" and inserting in lieu thereof "section". 25 USC 1621.

(2) in section 202, by striking out subsection (e);

(3) in section 204(e), by striking out the first sentence and striking out "subsection (c)" and inserting in lieu thereof "this section"; and 25 USC 1621a.  
25 USC 1621c.

(4) in section 209 (as amended by section 902(3)(B) of this Act)— 25 USC 1621h.

- (A) by striking out subsections (c)(5), (d)(6), (f)(4), and (g)(5);
- (B) in subsection (h)—
  - (i) by striking out paragraph (2) and by striking out “(1)”;
  - (ii) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively;
  - (iii) by striking out “subparagraph (A)” and inserting “paragraph (1)”;
  - (iv) by striking out “subparagraph (B)” and inserting “paragraph (2)”;
- (C) in subsection (i), by striking out paragraph (2) and by striking out “(1)”;
- (D) in subsection (d)(3)(B), by striking out “this subsection” and inserting in lieu thereof “this section”; and
- (E) in subsection (k)(6), by striking out the first sentence and in the second sentence by striking out “subsection” and inserting in lieu thereof “section”.

### TITLE III—HEALTH FACILITIES

#### SEC. 301. HEALTH FACILITIES CLOSURE AND PRIORITIES.

Section 301 of the Act (25 U.S.C. 1631) is amended—

(1) in subsection (a)(2), by striking out “Hospitals” and inserting “Health Care Organizations”;

(2) in subsection (b)(1)—

(A) in the material preceding subparagraph (A), by striking out “other” before “outpatient”;

(B) by striking out “and” at the end of subparagraph (D);

(C) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof a semicolon; and

(D) by adding at the end the following new subparagraphs:

“(F) the level of utilization of such hospital or facility by all eligible Indians; and

“(G) the distance between such hospital or facility and the nearest operating Service hospital.”;

(3) by striking out subsection (c) and redesignating subsections (d) and (e) as subsections (c) and (d), respectively;

(4) in subsection (c)(1) (as redesignated by paragraph (2) of this subsection), by amending the material preceding subparagraph (A) to read as follows:

“(c)(1) The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 801, a report which sets forth—”; and

(5) by striking out paragraph (2) of subsection (c) (as redesignated by paragraph (2)) and redesignating paragraphs (3), (4), and (5) of such subsection as paragraphs (2), (3), and (4), respectively.

Reports.

#### SEC. 302. SAFE WATER AND SANITARY WASTE DISPOSAL FACILITIES.

Section 302 of the Act (25 U.S.C. 1632) is amended—

(1) by amending subsection (e) to read as follows:

“(e)(1) The Secretary is authorized to provide financial assistance to Indian tribes and communities in an amount equal to

the Federal share of the costs of operating, managing, and maintaining the facilities provided under the plan described in subsection (c).

"(2) For the purposes of paragraph (1), the term 'Federal share' means 80 percent of the costs described in paragraph (1).

"(3) With respect to Indian tribes with fewer than 1,000 enrolled members, the non-Federal portion of the costs of operating, managing, and maintaining such facilities may be provided, in part, through cash donations or in kind property, fairly evaluated.";

(2) in subsection (f)(1), by striking out "subsection (h)" and inserting in lieu thereof "this section"; and

(3) in subsection (g)—

(A) in paragraph (1), by striking out "The Secretary" through "report" and inserting in lieu thereof the following: "The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 801, a report"; and

(B) by striking out paragraph (2) and redesignating paragraphs (3), (4), (5), and (6) as paragraphs (2), (3), (4), and (5), respectively.

#### SEC. 303. AMBULATORY CARE FACILITIES GRANT PROGRAM.

Section 306 of the Act (25 U.S.C. 1636) is amended to read as follows:

##### "GRANT PROGRAM FOR THE CONSTRUCTION, EXPANSION, AND MODERNIZATION OF SMALL AMBULATORY CARE FACILITIES

"SEC. 306. (a)(1) The Secretary, acting through the Service, shall make grants to tribes and tribal organizations for the construction, expansion, or modernization of facilities for the provision of ambulatory care services to eligible Indians (and noneligible persons as provided in subsection (c)(1)(C)). A grant made under this section may cover up to 100 percent of the costs of such construction, expansion, or modernization. For the purposes of this section, the term 'construction' includes the replacement of an existing facility.

"(2) A grant under paragraph (1) may only be made to a tribe or tribal organization operating an Indian health facility (other than a facility owned or constructed by the Service, including a facility originally owned or constructed by the Service and transferred to a tribe or tribal organization) pursuant to a contract entered into under the Indian Self-Determination Act.

"(b)(1) A grant provided under this section may be used only for the construction, expansion, or modernization (including the planning and design of such construction, expansion, or modernization) of an ambulatory care facility—

"(A) located apart from a hospital;

"(B) not funded under section 301 or section 307; and

"(C) which, upon completion of such construction, expansion, or modernization will—

"(i) have a total capacity appropriate to its projected service population;

"(ii) serve no less than 500 eligible Indians annually; and

"(iii) provide ambulatory care in a service area (specified in the contract entered into under the Indian Self-Determination Act) with a population of not less than 2,000 eligible Indians.

"(2) The requirements of clauses (ii) and (iii) of paragraph (1)(C) shall not apply to a tribe or tribal organization applying for a grant under this section whose tribal government offices are located on an island.

Regulations.

"(c)(1) No grant may be made under this section unless an application for such a grant has been submitted to and approved by the Secretary. An application for a grant under this section shall be submitted in such form and manner as the Secretary shall by regulation prescribe and shall set forth reasonable assurance by the applicant that, at all times after the construction, expansion, or modernization of a facility carried out pursuant to a grant received under this section—

"(A) adequate financial support will be available for the provision of services at such facility;

"(B) such facility will be available to eligible Indians without regard to ability to pay or source of payment; and

"(C) such facility will, as feasible without diminishing the quality or quantity of services provided to eligible Indians, serve noneligible persons on a cost basis.

"(2) In awarding grants under this section, the Secretary shall give priority to tribes and tribal organizations that demonstrate—

"(A) a need for increased ambulatory care services; and

"(B) insufficient capacity to deliver such services.

"(d) If any facility (or portion thereof) with respect to which funds have been paid under this section, ceases, at any time after completion of the construction, expansion, or modernization carried out with such funds, to be utilized for the purposes of providing ambulatory care services to eligible Indians, all of the right, title, and interest in and to such facility (or portion thereof) shall transfer to the United States."

**SEC. 304. INDIAN HEALTH CARE DELIVERY DEMONSTRATION PROJECT.**

(a) AWARDING OF GRANTS.—Section 307(c) of the Act (25 U.S.C. 1637(c)(3)) is amended—

(1) in paragraph (1)(A), by inserting "or program" immediately after "facility" each place it appears;

(2) in paragraph (3)(A)—

(A) by striking "The" and inserting "On or before September 30, 1995, the"; and

(B) by adding before the colon the following: "and for which a completed application has been received by the Secretary"; and

(3) by striking subparagraph (B) and inserting the following:

"(B) The Secretary may also enter into contracts or award grants under this section taking into consideration applications received under this section from all service areas. The Secretary may not award a greater number of such contracts or grants in one service area than in any other service area until there is an equal number of such contracts or grants awarded with respect to all service areas from which the Secretary receives applications during the application period (as determined by the Secretary) which meet the criteria specified in paragraph (1)."

(b) REPORTS.—Section 307(h) of the Act (25 U.S.C. 1637(h)) is amended to read as follows:

“(h)(1) The Secretary shall submit to the President, for inclusion in the report which is required to be submitted to the Congress under section 801 for fiscal year 1997, an interim report on the findings and conclusions derived from the demonstration projects established under this section.

“(2) The Secretary shall submit to the President, for inclusion in the report which is required to be submitted to the Congress under section 801 for fiscal year 1999, a final report on the findings and conclusions derived from the demonstration projects established under this section, together with legislative recommendations.”.

**SEC. 305. EXPENDITURE OF NONSERVICE FUNDS FOR RENOVATION.**

Section 305 of the Act (25 U.S.C. 1634) is amended to read as follows:

**“EXPENDITURE OF NONSERVICE FUNDS FOR RENOVATION**

**“SEC. 305. (a)(1) Notwithstanding any other provision of law, the Secretary is authorized to accept any major renovation or modernization by any Indian tribe of any Service facility, or of any other Indian health facility operated pursuant to a contract entered into under the Indian Self-Determination Act, including—**

**“(A) any plans or designs for such renovation or modernization; and**

**“(B) any renovation or modernization for which funds appropriated under any Federal law were lawfully expended, but only if the requirements of subsection (b) are met.**

**“(2) The Secretary shall maintain a separate priority list to address the needs of such facilities for personnel or equipment.**

**“(3) The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 801, the priority list maintained pursuant to paragraph (2).**

Reports.

**“(b) The requirements of this subsection are met with respect to any renovation or modernization if—**

**“(1) the tribe or tribal organization—**

**“(A) provides notice to the Secretary of its intent to renovate or modernize; and**

**“(B) applies to the Secretary to be placed on a separate priority list to address the needs of such new facilities for personnel or equipment; and**

**“(2) the renovation or modernization—**

**“(A) is approved by the appropriate area director of the Service; and**

**“(B) is administered by the tribe in accordance with the rules and regulations prescribed by the Secretary with respect to construction or renovation of Service facilities.**

**“(c) If any Service facility which has been renovated or modernized by an Indian tribe under this section ceases to be used as a Service facility during the 20-year period beginning on the date such renovation or modernization is completed, such Indian tribe shall be entitled to recover from the United States an amount which bears the same ratio to the value of such facility at the time of such cessation as the value of such renovation or modernization (less the total amount of any funds provided specifically for such facility under any Federal program that were expended for such renovation or modernization) bore to the value of such**



facility at the time of the completion of such renovation or modernization.”.

#### SEC. 306. LAND TRANSFER.

Title III of the Act is amended by adding at the end the following new section:

##### “LAND TRANSFER

Oregon.  
25 USC 1638.

“SEC. 308. The Bureau of Indian Affairs is authorized to transfer, at no cost, up to 5 acres of land at the Chemawa Indian School, Salem, Oregon, to the Service for the provision of health care services. The land authorized to be transferred by this section is that land adjacent to land under the jurisdiction of the Service and occupied by the Chemawa Indian Health Center.”.

#### SEC. 307. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—Title III of the Act (as amended by section 306 of this Act) is amended by adding at the end the following new section:

##### “AUTHORIZATION OF APPROPRIATIONS

25 USC 1638a.

“SEC. 309. There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2000 to carry out this title.”.

(b) CONFORMING AMENDMENTS.—Title III of the Act is amended—

25 USC 1632.  
25 USC 1637.

- (1) in section 302, by striking out subsection (h); and
- (2) in section 307, by striking out subsection (i).

#### SEC. 308. BUY AMERICAN REQUIREMENT.

Title III of the Act (as amended by section 307 of this Act) is amended by adding at the end the following new section:

##### “APPLICABILITY OF BUY AMERICAN REQUIREMENT

25 USC 1638b.

“SEC. 310. (a) The Secretary shall ensure that the requirements of the Buy American Act apply to all procurements made with funds provided pursuant to the authorization contained in section 309.

Reports.

“(b) The Secretary shall submit to the Congress a report on the amount of procurements from foreign entities made in fiscal years 1993 and 1994 with funds provided pursuant to the authorization contained in section 309. Such report shall separately indicate the dollar value of items procured with such funds for which the Buy American Act was waived pursuant to the Trade Agreement Act of 1979 or any international agreement to which the United States is a party.

“(c) If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a ‘Made in America’ inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, such person shall be ineligible to receive any contract or subcontract made with funds provided pursuant to the authorization contained in section 309, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

“(d) For purposes of this section, the term “Buy American Act” means title III of the Act entitled “An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes”, approved March 3, 1933 (41 U.S.C. 10a et seq.).”.

## TITLE IV—ACCESS TO HEALTH SERVICES

### SEC. 401. TREATMENT OF PAYMENTS TO INDIAN HEALTH SERVICE FACILITIES UNDER MEDICARE AND MEDICAID PROGRAMS.

(a) MEDICARE PROGRAM.—Section 401 of the Act (42 U.S.C. 1395qq note) is amended to read as follows:

#### “TREATMENT OF PAYMENTS UNDER MEDICARE PROGRAM

“SEC. 401. (a) Any payments received by a hospital or skilled nursing facility of the Service (whether operated by the Service or by an Indian tribe or tribal organization pursuant to a contract under the Indian Self-Determination Act) for services provided to Indians eligible for benefits under title XVIII of the Social Security Act shall not be considered in determining appropriations for health care and services to Indians. 25 USC 1641.

“(b) Nothing in this Act authorizes the Secretary to provide services to an Indian beneficiary with coverage under title XVIII of the Social Security Act, as amended, in preference to an Indian beneficiary without such coverage.”.

(b) MEDICAID PROGRAM.—(1) Section 402 of the Act is amended to read as follows:

#### “TREATMENT OF PAYMENTS UNDER MEDICAID PROGRAM

“SEC. 402. (a) Notwithstanding any other provision of law, payments to which any facility of the Service (including a hospital, nursing facility, intermediate care facility for the mentally retarded, or any other type of facility which provides services for which payment is available under title XIX of the Social Security Act) is entitled under a State plan by reason of section 1911 of such Act shall be placed in a special fund to be held by the Secretary and used by him (to such extent or in such amounts as are provided in appropriation Acts) exclusively for the purpose of making any improvements in the facilities of such Service which may be necessary to achieve compliance with the applicable conditions and requirements of such title. In making payments from such fund, the Secretary shall ensure that each service unit of the Service receives at least 80 percent of the amounts to which the facilities of the Service, for which such service unit makes collections, are entitled by reason of section 1911 of the Social Security Act. 25 USC 1642.

“(b) Any payments received by such facility for services provided to Indians eligible for benefits under title XIX of the Social Security Act shall not be considered in determining appropriations for the provision of health care and services to Indians.”.

(2) The increase (from 50 percent) in the percentage of the payments from the fund to be made to each service unit of the Service specified in the amendment made by paragraph (1) shall take effect beginning with payments made on January 1, 1993. 25 USC 1642 note.

**SEC. 402. REPORT.**

25 USC 1643.

Section 403 of the Act (25 U.S.C. 1671 note) is amended by striking out "The Secretary" and all that follows through "section 701" and inserting in lieu thereof the following: "The Secretary shall submit to the President, for inclusion in the report required to be transmitted to the Congress under section 801,".

**SEC. 403. APPLICATION ASSISTANCE.**

25 USC 1644.

Section 404 of the Act (25 U.S.C. 1622) is amended—

(1) by amending subsection (b)(4) to read as follows:

"(4) develop and implement—

"(A) a schedule of income levels to determine the extent of payments of premiums by such organizations for coverage of needy individuals; and

"(B) methods of improving the participation of Indians in receiving the benefits provided under titles XVIII and XIX of the Social Security Act."; and

(2) by amending subsection (c) to read as follows:

"(c) The Secretary, acting through the Service, may enter into an agreement with an Indian tribe, tribal organization, or urban Indian organization which provides for the receipt and processing of applications for medical assistance under title XIX of the Social Security Act and benefits under title XVIII of the Social Security Act at a Service facility or a health care facility administered by such tribe or organization pursuant to a contract under the Indian Self-Determination Act.".

**SEC. 404. EXTENSION OF DEMONSTRATION PROGRAM.**

25 USC 1645.

Section 405 of the Act (42 U.S.C. 1395qq note) is amended—

(1) in subsection (c)(2), by striking "1995" and inserting "1996"; and

(2) in subsection (e), by striking "1995" and inserting "1996".

**SEC. 405. AUTHORIZATION FOR EMERGENCY CONTRACT HEALTH SERVICES.**

Title IV of the Act is amended by adding at the end the following new section:

**"AUTHORIZATION FOR EMERGENCY CONTRACT HEALTH SERVICES**

25 USC 1646.

"SEC. 406. With respect to an elderly or disabled Indian receiving emergency medical care or services from a non-Service provider or in a non-Service facility under the authority of this Act, the time limitation (as a condition of payment) for notifying the Service of such treatment or admission shall be 30 days."

**SEC. 406. AUTHORIZATION OF APPROPRIATIONS.**

Title IV of the Act is amended by adding at the end the following new section:

**"AUTHORIZATION OF APPROPRIATIONS**

25 USC 1647.

"SEC. 407. There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2000 to carry out this title."

## TITLE V—HEALTH SERVICES FOR URBAN INDIANS

### SEC. 501. GRANT AUTHORITY.

(a) IN GENERAL.—Section 502 of the Act (25 U.S.C. 1652) is amended—

- (1) by striking “contracts with” and inserting the following: “contracts with, or make grants to,”;
- (2) by inserting after “enters into with” the following: “, or in any grant the Secretary makes to,”; and
- (3) by amending the heading to read as follows:

“CONTRACTS WITH, AND GRANTS TO, URBAN INDIAN ORGANIZATIONS”.

(b) CONFORMING AMENDMENTS.—(1) Section 503 of the Act (25 U.S.C. 1653) is amended—

(A) in subsection (a), in the material preceding paragraph

(1)—

(i) by inserting “, or make grants to,” after “contracts with”; and

(ii) by inserting “or grant” after “such contract”;

(B) in subsection (b)—

(i) in the material preceding paragraph (1), by inserting “or receive grants” after “enter into contracts”; and

(ii) in paragraph (5), by inserting “or to meet the requirements for receiving a grant” after “Secretary”;

(C) in subsection (c)(1), by inserting before the period at the end the following: “or receiving grants under subsection (a)”;

(D) in subsection (d)(1), by inserting before the period at the end the following: “or receiving grants under subsection (a)”;

(E) in subsection (e)(1), by inserting before the period at the end the following: “or receiving grants under subsection (a)”;

(F) in subsection (f), by inserting “or receiving grants under subsection (a)” after “this section”; and

(G) by amending the heading to read as follows:

“CONTRACTS AND GRANTS FOR THE PROVISION OF HEALTH CARE AND REFERRAL SERVICES”.

(2) Section 504 of the Act (25 U.S.C. 1654) is amended—

(A) by striking “SEC. 504.” and all that follows through the end of subsection (a) and inserting the following:

“SEC. 504. (a) Under authority of the Act of November 2, 1921 (25 U.S.C. 13), popularly known as the Snyder Act, the Secretary, through the Service, may enter into contracts with, or make grants to, urban Indian organizations situated in urban centers for which contracts have not been entered into, or grants have not been made, under section 503. The purpose of a contract or grant made under this section shall be the determination of the matters described in subsection (b)(1) in order to assist the Secretary in assessing the health status and health care needs of urban Indians in the urban center involved and determining whether the Secretary should enter into a contract or make a

grant under section 503 with respect to the urban Indian organization which the Secretary has entered into a contract with, or made a grant to, under this section.”;

(B) in subsection (b)—

(i) in the material preceding paragraph (1), by inserting “, or grant made,” after “contract entered into”; and

(ii) in paragraph (2), by striking “within one year” and all that follows through the period at the end and inserting the following: “, or carry out the requirements of the grant, within one year after the date on which the Secretary and such organization enter into such contract, or within one year after such organization receives such grant, whichever is applicable.”;

(C) in subsection (c), by inserting “, or grant made,” after “entered into”; and

(D) by amending the heading to read as follows:

“CONTRACTS AND GRANTS FOR THE DETERMINATION OF UNMET HEALTH CARE NEEDS”.

(3) Section 505 of the Act (25 U.S.C. 1655) is amended—

(A) in subsection (a), by inserting “compliance with grant requirements under this title and” before “compliance with,”;

(B) in subsection (b)—

(i) by inserting “or received a grant” after “entered into a contract”; and

(ii) by inserting before the period at the end the following: “or the terms of such grant”;

(C) in subsection (c)—

(i) by inserting “the requirements of a grant or complied with” after “complied with”;

(ii) by inserting “or grant” after “such contract” each place it appears;

(iii) by inserting “or make a grant” after “enter into a contract”; and

(iv) by inserting “or grant” after “whose contract”;

(D) in subsection (d), by inserting “or grant” after “a contract” each place it appears; and

(E) by amending the heading to read as follows:

“EVALUATIONS; RENEWALS”.

(4) Section 506 of the Act (25 U.S.C. 1656) is amended—

(A) in subsection (b), by inserting “or grants” after “any contracts”;

(B) in subsection (d), by inserting “or grant” after “contract” each place it appears;

(C) in subsection (e)—

(i) by inserting “, or grants to,” after “Contracts with”; and

(ii) by inserting “or grants” after “such contracts”; and

(D) by amending the heading to read as follows:

“OTHER CONTRACT AND GRANT REQUIREMENTS”.

(5) Section 507 of the Act (25 U.S.C. 1657) is amended—

(A) in subsection (a)—

(i) in the material preceding paragraph (1), by inserting “, or a grant received,” after “entered into”; and

(ii) in paragraphs (1) and (2), by inserting “or grant” after “contract” each place it appears; and

(B) in subsections (b) and (c), by inserting “or grant” after “contract” each place it appears.

(6) Section 509 of the Act (25 U.S.C. 1659) (as amended by section 902(5)(A) of this Act) is amended by inserting “or grant recipients” after “contractors” each place it appears.

(7) Section 510(a) of the Act (25 U.S.C. 1660(a)) (as amended by section 902(5)(B) of this Act) is amended by inserting before the period at the end the following: “and for providing central oversight of the programs and services authorized under this title”.

#### SEC. 502. ALCOHOL AND SUBSTANCE ABUSE.

Title V of the Act is amended by inserting after section 510 (as redesignated by section 902(5)(B) of this Act) the following new section:

##### “GRANTS FOR ALCOHOL AND SUBSTANCE ABUSE RELATED SERVICES

“SEC. 511. (a) GRANTS.—The Secretary may make grants for the provision of health-related services in prevention of, treatment of, rehabilitation of, or school and community-based education in, alcohol and substance abuse in urban centers to those urban Indian organizations with whom the Secretary has entered into a contract under this title or under section 201.

“(b) GOALS OF GRANT.—Each grant made pursuant to subsection (a) shall set forth the goals to be accomplished pursuant to the grant. The goals shall be specific to each grant as agreed to between the Secretary and the grantee.

“(c) CRITERIA.—The Secretary shall establish criteria for the grants made under subsection (a), including criteria relating to the—

“(1) size of the urban Indian population;

“(2) accessibility to, and utilization of, other health resources available to such population;

“(3) duplication of existing Service or other Federal grants or contracts;

“(4) capability of the organization to adequately perform the activities required under the grant;

“(5) satisfactory performance standards for the organization in meeting the goals set forth in such grant, which standards shall be negotiated and agreed to between the Secretary and the grantee on a grant-by-grant basis; and

“(6) identification of need for services.

“The Secretary shall develop a methodology for allocating grants made pursuant to this section based on such criteria.

“(d) TREATMENT OF FUNDS RECEIVED BY URBAN INDIAN ORGANIZATIONS.—Any funds received by an urban Indian organization under this Act for substance abuse prevention, treatment, and rehabilitation shall be subject to the criteria set forth in subsection (c).”.

#### SEC. 503. TREATMENT OF DEMONSTRATION PROJECTS.

Title V of the Act (as amended by section 502 of this Act) is amended by adding at the end the following new section:

25 USC 1660a.

**"TREATMENT OF CERTAIN DEMONSTRATION PROJECTS"**

Oklahoma.  
25 USC 1660b.

"SEC. 512. (a) Notwithstanding any other provision of law, the Oklahoma City Clinic demonstration project and the Tulsa Clinic demonstration project shall be treated as service units in the allocation of resources and coordination of care and shall not be subject to the provisions of the Indian Self-Determination Act for the term of such projects. The Secretary shall provide assistance to such projects in the development of resources and equipment and facility needs.

Reports.

"(b) The Secretary shall submit to the President, for inclusion in the report required to be submitted to the Congress under section 801 for fiscal year 1999, a report on the findings and conclusions derived from the demonstration projects specified in subsection (a)."

**SEC. 504. URBAN NIAAA TRANSFERRED PROGRAMS.**

Title V of the Act (as amended by section 503 of this Act) is amended by adding at the end the following new section:

**"URBAN NIAAA TRANSFERRED PROGRAMS"**

Grants.  
Contracts.  
Alcohol and  
alcohol abuse.  
25 USC 1660c.

"SEC. 513. (a) The Secretary shall, within the Branch of Urban Health Programs of the Service, make grants or enter into contracts for the administration of urban Indian alcohol programs that were originally established under the National Institute on Alcoholism and Alcohol Abuse (hereafter in this section referred to as 'NIAAA') and transferred to the Service.

"(b) Grants provided or contracts entered into under this section shall be used to provide support for the continuation of alcohol prevention and treatment services for urban Indian populations and such other objectives as are agreed upon between the Service and a recipient of a grant or contract under this section.

"(c) Urban Indian organizations that operate Indian alcohol programs originally funded under NIAAA and subsequently transferred to the Service are eligible for grants or contracts under this section.

"(d) For the purpose of carrying out this section, the Secretary may combine NIAAA alcohol funds with other substance abuse funds currently administered through the Branch of Urban Health Programs of the Service.

Reports.

"(e) The Secretary shall evaluate and report to the Congress on the activities of programs funded under this section at least every two years."

**SEC. 505. AUTHORIZATION OF APPROPRIATIONS.**

(a) AUTHORIZATION.—Title V of the Act (as amended by section 504 of this Act) is amended by adding at the end the following new section:

**"AUTHORIZATION OF APPROPRIATIONS"**

25 USC 1660d.

"SEC. 514. There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2000 to carry out this title."

(b) CONFORMING AMENDMENTS.—Title V of the Act (25 U.S.C. 1650 et seq.) is amended—

25 USC 1653.

(1) in section 503—

- (A) in subsection (c), by striking out “(c)(1)” and inserting “(c)” and by striking out paragraph (2);
- (B) in subsection (d), by striking out paragraph (4);
- (C) in subsection (e), by striking out paragraph (4);
- and
- (D) in subsection (f), by striking out paragraph (5);
- and
- (2) in section 509 (as redesignated by section 902(5)(A) of this Act), by striking out the last sentence.

25 USC 1659.

## TITLE VI—ORGANIZATIONAL IMPROVEMENTS

### SEC. 601. INDIAN HEALTH SERVICE.

Section 601(c) of the Act (15 U.S.C. 1661(c)) is amended—

- (1) in paragraph (2), by striking out “and” after the semicolon;
- (2) in paragraph (3), by striking out the period at the end and inserting in lieu thereof “, and”; and
- (3) by adding at the end the following new paragraph:
- “(4) all scholarship and loan functions carried out under title I.”

### SEC. 602. DIRECTOR OF INDIAN HEALTH SERVICE.

(a) CONFIRMATION BY SENATE.—

(1) IN GENERAL.—Section 601(a) of the Act (25 U.S.C. 1661(a)) is amended in the second sentence by striking “Secretary” and inserting “President, by and with the advice and consent of the Senate”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect January 1, 1993.

(b) INTERIM APPOINTMENT.—The President may appoint an individual to serve as Interim Director of the Service from January 1, 1993, until such time as a Director is appointed and confirmed as provided in section 601(a) of the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.) (as amended by subsection (a) of this section).

(c) TERM.—Section 601(a) of the Act (25 U.S.C. 1661(a)) is amended by adding at the end the following: “Effective with respect to an individual appointed by the President, by and with the advice and consent of the Senate, after January 1, 1993, the term of service of the Director shall be 4 years. A Director may serve more than 1 term.”

25 USC 1661  
note.25 USC 1661  
note.

### SEC. 603. AUTHORIZATION OF APPROPRIATIONS.

Title VI of the Act (25 U.S.C. 1661 et seq.) is amended by adding at the end the following new section:

#### “AUTHORIZATION OF APPROPRIATIONS

“SEC. 603. There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2000 to carry out this title.”

25 USC 1663.



## TITLE VII—SUBSTANCE ABUSE PROGRAMS

### SEC. 701. REDESIGNATION OF EXISTING TITLE VII.

(a) **TITLE HEADING.**—Title VII of the Act (25 U.S.C. 1671 et seq.) is redesignated as title VIII and the title heading is amended to read as follows:

#### “TITLE VIII—MISCELLANEOUS”

(b) **REDESIGNATION OF SECTIONS.**—Sections 701 through 720 of the Act (25 U.S.C. 1671 et seq.) are hereby redesignated as sections 801 through 820, respectively.

25 USC 1621f.

(c) **CONFORMING AMENDMENTS.**—The Act is amended—

25 USC 1687.

(1) in section 207(a), by striking out “section 713” and inserting in lieu thereof “section 813”;

25 USC 1645.

(2) in section 307(e), by striking out “section 713” and inserting in lieu thereof “section 813”; and

(3) in section 405(b)—

(A) in paragraph (1), by striking out “sections 402(c) and 713(b)(2)(A)” and inserting in lieu thereof “sections 402(a) and 813(b)(2)(A)”; and

(B) in paragraph (4), by striking out “section 402(c)” each place it appears and inserting in lieu thereof “section 402(a)”.

25 USC 1671  
note.

(d) **REFERENCES.**—Any reference in a provision of law other than the Indian Health Care Improvement Act to sections redesignated by subsection (b) shall be deemed to refer to the section as so redesignated.

### SEC. 702. SUBSTANCE ABUSE PROGRAMS.

(a) **IN GENERAL.**—The Act is amended by inserting after title VI the following new title:

#### “TITLE VII—SUBSTANCE ABUSE PROGRAMS

##### “INDIAN HEALTH SERVICE RESPONSIBILITIES

25 USC 1665.

“SEC. 701. The Memorandum of Agreement entered into pursuant to section 4205 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2411) shall include specific provisions pursuant to which the Service shall assume responsibility for—

“(1) the determination of the scope of the problem of alcohol and substance abuse among Indian people, including the number of Indians within the jurisdiction of the Service who are directly or indirectly affected by alcohol and substance abuse and the financial and human cost;

“(2) an assessment of the existing and needed resources necessary for the prevention of alcohol and substance abuse and the treatment of Indians affected by alcohol and substance abuse; and

“(3) an estimate of the funding necessary to adequately support a program of prevention of alcohol and substance abuse and treatment of Indians affected by alcohol and substance abuse.

## "INDIAN HEALTH SERVICE PROGRAM

"SEC. 702. (a) COMPREHENSIVE PREVENTION AND TREATMENT PROGRAM.—(1) The Secretary, acting through the Service, shall provide a program of comprehensive alcohol and substance abuse prevention and treatment which shall include—

25 USC 1665a.

"(A) prevention, through educational intervention, in Indian communities;

"(B) acute detoxification and treatment;

"(C) community-based rehabilitation;

"(D) community education and involvement, including extensive training of health care, educational, and community-based personnel; and

"(E) residential treatment programs for pregnant and post partum women and their children.

"(2) The target population of such program shall be members of Indian tribes. Efforts to train and educate key members of the Indian community shall target employees of health, education, judicial, law enforcement, legal, and social service programs.

"(b) CONTRACT HEALTH SERVICES.—(1) The Secretary, acting through the Service, may enter into contracts with public or private providers of alcohol and substance abuse treatment services for the purpose of assisting the Service in carrying out the program required under subsection (a).

"(2) In carrying out this subsection, the Secretary shall provide assistance to Indian tribes to develop criteria for the certification of alcohol and substance abuse service providers and accreditation of service facilities which meet minimum standards for such services and facilities as may be determined pursuant to section 4205(a)(3) of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2411(a)(3)).

"(c) GRANTS FOR MODEL PROGRAM.—(1) The Secretary, acting through the Service shall make a grant to the Standing Rock Sioux Tribe to develop a community-based demonstration project to reduce drug and alcohol abuse on the Standing Rock Sioux Reservation and to rehabilitate Indian families afflicted by such abuse.

"(2) Funds shall be used by the Tribe to—

"(A) develop and coordinate community-based alcohol and substance abuse prevention and treatment services for Indian families;

"(B) develop prevention and intervention models for Indian families;

"(C) conduct community education on alcohol and substance abuse; and

"(D) coordinate with existing Federal, State, and tribal services on the reservation to develop a comprehensive alcohol and substance abuse program that assists in the rehabilitation of Indian families that have been or are afflicted by alcoholism.

"(3) The Secretary shall submit to the President for inclusion in the report to be transmitted to the Congress under section 801 for fiscal year 1995 an evaluation of the demonstration project established under paragraph (1).

Reports.

## "INDIAN WOMEN TREATMENT PROGRAMS

"SEC. 703. (a) The Secretary may make grants to Indian tribes and tribal organizations to develop and implement a comprehensive

25 USC 1665b.

alcohol and substance abuse program of prevention, intervention, treatment, and relapse prevention services that specifically addresses the cultural, historical, social, and child care needs of Indian women, regardless of age.

“(b) Grants made pursuant to this section may be used to—

“(1) develop and provide community training, education, and prevention programs for Indian women relating to alcohol and substance abuse issues, including fetal alcohol syndrome and fetal alcohol effect;

“(2) identify and provide appropriate counseling, advocacy, support, and relapse prevention to Indian women and their families; and

“(3) develop prevention and intervention models for Indian women which incorporate traditional healers, cultural values, and community and family involvement.

“(c) The Secretary shall establish criteria for the review and approval of applications for grants under this section.

“(d)(1) There are authorized to be appropriated to carry out this section \$10,000,000 for fiscal year 1993 and such sums as are necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.

“(2) Twenty percent of the funds appropriated pursuant to this subsection shall be used to make grants to urban Indian organizations funded under title V.

#### “INDIAN HEALTH SERVICE YOUTH PROGRAM

25 USC 1665c.

“SEC. 704. (a) DETOXIFICATION AND REHABILITATION.—The Secretary shall develop and implement a program for acute detoxification and treatment for Indian youth who are alcohol and substance abusers. The program shall include regional treatment centers designed to include detoxification and rehabilitation for both sexes on a referral basis. These regional centers shall be integrated with the intake and rehabilitation programs based in the referring Indian community.

“(b) TREATMENT CENTERS OR FACILITIES.—(1) The Secretary shall construct, renovate, or, as necessary, purchase, and appropriately staff and operate, a youth regional treatment center in each area under the jurisdiction of an area office. For the purposes of this subsection, the area offices of the Service in Tucson and Phoenix, Arizona, shall be considered one area office and the area office in California shall be considered to be two area offices, one office whose jurisdiction shall be considered to encompass the northern area of the State of California, and one office whose jurisdiction shall be considered to encompass the remainder of the State of California.

“(2) For the purpose of staffing and operating such centers or facilities, funding shall be pursuant to the Act of November 2, 1921 (25 U.S.C. 13).

“(3) A youth treatment center constructed or purchased under this subsection shall be constructed or purchased at a location within the area described in paragraph (1) agreed upon (by appropriate tribal resolution) by a majority of the tribes to be served by such center.

“(4)(A) Notwithstanding any other provision of this title, the Secretary may, from amounts authorized to be appropriated for the purposes of carrying out this section, make funds available to—

Arizona.  
California.

"(i) the Tanana Chiefs Conference, Incorporated, for the purpose of leasing, constructing, renovating, operating and maintaining a residential youth treatment facility in Fairbanks, Alaska; and

"(ii) the Southeast Alaska Regional Health Corporation to staff and operate a residential youth treatment facility without regard to the proviso set forth in section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(1)).

"(B) Until additional residential youth treatment facilities are established in Alaska pursuant to this section, the facilities specified in subparagraph (A) shall make every effort to provide services to all eligible Indian youth residing in such State.

Alaska.

"(c) FEDERALLY OWNED STRUCTURES.—

"(1) The Secretary, acting through the Service, shall, in consultation with Indian tribes—

"(A) identify and use, where appropriate, federally owned structures suitable as local residential or regional alcohol and substance abuse treatment centers for Indian youth; and

"(B) establish guidelines for determining the suitability of any such federally owned structure to be used as a local residential or regional alcohol and substance abuse treatment center for Indian youth.

"(2) Any structure described in paragraph (1) may be used under such terms and conditions as may be agreed upon by the Secretary and the agency having responsibility for the structure.

"(d) REHABILITATION AND AFTERCARE SERVICES.—

"(1) The Secretary, in cooperation with the Secretary of the Interior, shall develop and implement within each Service service unit community-based rehabilitation and follow-up services for Indian youth who are alcohol or substance abusers which are designed to integrate long-term treatment and to monitor and support the Indian youth after their return to their home community.

"(2) Services under paragraph (1) shall be administered within each service unit by trained staff within the community who can assist the Indian youth in continuing development of self-image, positive problem-solving skills, and nonalcohol or substance abusing behaviors. Such staff shall include alcohol and substance abuse counselors, mental health professionals, and other health professionals and paraprofessionals, including community health representatives.

"(e) INCLUSION OF FAMILY IN YOUTH TREATMENT PROGRAM.—

In providing the treatment and other services to Indian youth authorized by this section, the Secretary shall provide for the inclusion of family members of such youth in the treatment programs or other services as may be appropriate. Not less than 10 percent of the funds appropriated for the purposes of carrying out subsection (d) shall be used for outpatient care of adult family members related to the treatment of an Indian youth under that subsection.

"(f) MULTIDRUG ABUSE STUDY.—(1) The Secretary shall conduct a study to determine the incidence and prevalence of the abuse of multiple forms of drugs, including alcohol, among Indian youth residing on Indian reservations and in urban areas and the inter-

relationship of such abuse with the incidence of mental illness among such youth.

Reports.

"(2) The Secretary shall submit a report detailing the findings of such study, together with recommendations based on such findings, to the Congress no later than two years after the date of the enactment of this section.

"TRAINING AND COMMUNITY EDUCATION

25 USC 1665d.

"SEC. 705. (a) COMMUNITY EDUCATION.—The Secretary, in cooperation with the Secretary of the Interior, shall develop and implement within each service unit a program of community education and involvement which shall be designed to provide concise and timely information to the community leadership of each tribal community. Such program shall include education in alcohol and substance abuse to political leaders, tribal judges, law enforcement personnel, members of tribal health and education boards, and other critical members of each tribal community.

"(b) TRAINING.—The Secretary shall, either directly or by contract, provide instruction in the area of alcohol and substance abuse, including instruction in crisis intervention and family relations in the context of alcohol and substance abuse, youth alcohol and substance abuse, and the causes and effects of fetal alcohol syndrome to appropriate employees of the Bureau of Indian Affairs and the Service, and to personnel in schools or programs operated under any contract with the Bureau of Indian Affairs or the Service, including supervisors of emergency shelters and halfway houses described in section 4213 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2433).

"(c) COMMUNITY-BASED TRAINING MODELS.—In carrying out the education and training programs required by this section, the Secretary, acting through the Service and in consultation with tribes and Indian alcohol and substance abuse prevention experts, shall develop and provide community-based training models. Such models shall address—

"(1) the elevated risk of alcohol and substance abuse faced by children of alcoholics;

"(2) the cultural and multigenerational aspects of alcohol and substance abuse prevention and recovery; and

"(3) community-based and multidisciplinary strategies for preventing and treating alcohol and substance abuse.

"GALLUP ALCOHOL AND SUBSTANCE ABUSE TREATMENT CENTER

25 USC 1665e.

"SEC. 706. (a) GRANTS FOR RESIDENTIAL TREATMENT.—The Secretary shall make grants to the Navajo Nation for the purpose of providing residential treatment for alcohol and substance abuse for adult and adolescent members of the Navajo Nation and neighboring tribes.

"(b) PURPOSES OF GRANTS.—Grants made pursuant to this section shall (to the extent appropriations are made available) be used to—

"(1) provide at least 15 residential beds each year for adult long-term treatment, including beds for specialized services such as polydrug abusers, dual diagnosis, and specialized services for women with fetal alcohol syndrome children;

"(2) establish clinical assessment teams consisting of a clinical psychologist, a part-time addictionologist, a master's

level assessment counselor, and a certified medical records technician which shall be responsible for conducting individual assessments and matching Indian clients with the appropriate available treatment;

"(3) provide at least 12 beds for an adolescent shelterbed program in the city of Gallup, New Mexico, which shall serve as a satellite facility to the Acoma/Canoncito/Laguna Hospital and the adolescent center located in Shiprock, New Mexico, for emergency crisis services, assessment, and family intervention;

New Mexico.

"(4) develop a relapse program for the purposes of identifying sources of job training and job opportunity in the Gallup area and providing vocational training, job placement, and job retention services to recovering substance abusers; and

"(5) provide continuing education and training of treatment staff in the areas of intensive outpatient services, development of family support systems, and case management in cooperation with regional colleges, community colleges, and universities.

"(c) CONTRACT FOR RESIDENTIAL TREATMENT.—The Navajo Nation, in carrying out the purposes of this section, shall enter into a contract with an institution in the Gallup, New Mexico, area which is accredited by the Joint Commission of the Accreditation of Health Care Organizations to provide comprehensive alcohol and drug treatment as authorized in subsection (b).

New Mexico.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

"(1) to carry out the purposes of subsection (b)(1)—

"(A) \$400,000 for fiscal year 1993;

"(B) \$400,000 for fiscal year 1994; and

"(C) \$500,000 for fiscal year 1995;

"(2) to carry out the purposes of subsection (b)(2)—

"(A) \$100,000 for fiscal year 1993;

"(B) \$125,000 for fiscal year 1994; and

"(C) \$150,000 for fiscal year 1995;

"(3) to carry out the purposes of subsection (b)(3)—

"(A) \$75,000 for fiscal year 1993;

"(B) \$85,000 for fiscal year 1994; and

"(C) \$100,000 for fiscal year 1995;

"(4) to carry out the purposes of subsection (b)(4), \$150,000 for each of fiscal years 1993, 1994, and 1995; and

"(5) to carry out the purposes of subsection (b)(5)—

"(A) \$75,000 for fiscal year 1993;

"(B) \$90,000 for fiscal year 1994; and

"(C) \$100,000 for fiscal year 1995.

#### "REPORTS

"SEC. 707. (a) COMPILATION OF DATA.—The Secretary, with respect to the administration of any health program by a service unit, directly or through contract, including a contract under the Indian Self-Determination Act, shall require the compilation of data relating to the number of cases or incidents in which any Service personnel or services were involved and which were related, either directly or indirectly, to alcohol or substance abuse. Such report shall include the type of assistance provided and the disposition of these cases.

25 USC 1665f.

"(b) REFERRAL OF DATA.—The data compiled under subsection (a) shall be provided annually to the affected Indian tribe and

Tribal Coordinating Committee to assist them in developing or modifying a Tribal Action Plan under section 4206 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2471 et seq.).

“(c) COMPREHENSIVE REPORT.—Each service unit director shall be responsible for assembling the data compiled under this section and section 4214 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2434) into an annual tribal comprehensive report. Such report shall be provided to the affected tribe and to the Director of the Service who shall develop and publish a biennial national report based on such tribal comprehensive reports.

“FETAL ALCOHOL SYNDROME AND FETAL ALCOHOL EFFECT GRANTS

25 USC 1665g.

“SEC. 708. (a)(1) The Secretary may make grants to Indian tribes and tribal organizations to establish fetal alcohol syndrome and fetal alcohol effect programs as provided in this section for the purposes of meeting the health status objectives specified in section 3(b).

“(2) Grants made pursuant to this section shall be used to—

“(A) develop and provide community and in-school training, education, and prevention programs relating to FAS and FAE;

“(B) identify and provide alcohol and substance abuse treatment to high-risk women;

“(C) identify and provide appropriate educational and vocational support, counseling, advocacy, and information to FAS and FAE affected persons and their families or caretakers;

“(D) develop and implement counseling and support programs in schools for FAS and FAE affected children;

“(E) develop prevention and intervention models which incorporate traditional healers, cultural values and community involvement;

“(F) develop, print, and disseminate education and prevention materials on FAS and FAE; and

“(G) develop and implement, through the tribal consultation process, culturally sensitive assessment and diagnostic tools for use in tribal and urban Indian communities.

“(3) The Secretary shall establish criteria for the review and approval of applications for grants under this section.

“(b) The Secretary, acting through the Service, shall—

“(1) develop an annual plan for the prevention, intervention, treatment, and aftercare for those affected by FAS and FAE in Indian communities;

“(2) conduct a study, directly or by contract with any organization, entity, or institution of higher education with significant knowledge of FAS and FAE and Indian communities, of the special educational, vocational, school-to-work transition, and independent living needs of adolescent and adult Indians and Alaska Natives with FAS or FAE; and

Establishment.

“(3) establish a national clearinghouse for prevention and educational materials and other information on FAS and FAE effect in Indian and Alaska Native communities and ensure access to clearinghouse materials by any Indian tribe or urban Indian organization.

Establishment.

“(c) The Secretary shall establish a task force to be known as the FAS/FAE Task Force to advise the Secretary in carrying out subsection (b). Such task force shall be composed of rep-

representatives from the National Institute on Drug Abuse, the National Institute on Alcohol and Alcoholism, the Office of Substance Abuse Prevention, the National Institute of Mental Health, the Service, the Office of Minority Health of the Department of Health and Human Services, the Administration for Native Americans, the Bureau of Indian Affairs, Indian tribes, tribal organizations, urban Indian communities, and Indian FAS/FAE experts.

“(d) The Secretary, acting through the Substance Abuse and Mental Health Services Administration, shall make grants to Indian tribes, tribal organizations, universities working with Indian tribes on cooperative projects, and urban Indian organizations for applied research projects which propose to elevate the understanding of methods to prevent, intervene, treat, or provide aftercare for Indians and urban Indians affected by FAS or FAE.

“(e)(1) The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 801, a report on the status of FAS and FAE in the Indian population. Such report shall include, in addition to the information required under section (3)(d) with respect to the health status objective specified in section (3)(b)(27), the following:

Reports.

“(A) The progress of implementing a uniform assessment and diagnostic methodology in Service and tribally based service delivery systems.

“(B) The incidence of FAS and FAE babies born for all births by reservation and urban-based sites.

“(C) The prevalence of FAS and FAE affected Indian persons in Indian communities, their primary means of support, and recommendations to improve the support system for these individuals and their families or caretakers.

“(D) The level of support received from the entities specified in subsection (c) in the area of FAS and FAE.

“(E) The number of inpatient and outpatient substance abuse treatment resources which are specifically designed to meet the unique needs of Indian women, and the volume of care provided to Indian women through these means.

“(F) Recommendations regarding the prevention, intervention, and appropriate vocational, educational and other support services for FAS and FAE affected individuals in Indian communities.

“(2) The Secretary may contract the production of this report to a national organization specifically addressing FAS and FAE in Indian communities.

“(f)(1) There are authorized to be appropriated to carry out this section \$22,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.

“(2) Ten percent of the funds appropriated pursuant to this section shall be used to make grants to urban Indian organizations funded under title V.

“PUEBLO SUBSTANCE ABUSE TREATMENT PROJECT FOR SAN JUAN  
PUEBLO, NEW MEXICO

“SEC. 709. The Secretary, acting through the Service, shall continue to make grants, through fiscal year 1995, to the 8 Northern Indian Pueblos Council, San Juan Pueblo, New Mexico, for the purpose of providing substance abuse treatment services to Indians in need of such services.

Grants.  
25 USC 1665h.



## "THUNDER CHILD TREATMENT CENTER"

Grants.  
Wyoming.  
25 USC 1665i.

"SEC. 710. (a) The Secretary, acting through the Service, shall make a grant to the Intertribal Addictions Recovery Organization, Inc. (commonly known as the Thunder Child Treatment Center) at Sheridan, Wyoming, for the completion of construction of a multiple approach substance abuse treatment center which specializes in the treatment of alcohol and drug abuse of Indians.

"(b) For the purposes of carrying out subsection (a), there are authorized to be appropriated \$2,000,000 for fiscal years 1993 and 1994. No funding shall be available for staffing or operation of this facility. None of the funding appropriated to carry out subsection (a) shall be used for administrative purposes.

"SUBSTANCE ABUSE COUNSELOR EDUCATION DEMONSTRATION  
PROJECT"

25 USC 1665j.

"SEC. 711. (a) The Secretary, acting through the Service, may enter into contracts with, or make grants to, accredited tribally controlled community colleges, tribally controlled postsecondary vocational institutions, and eligible community colleges to establish demonstration projects to develop educational curricula for substance abuse counseling.

"(b) Funds provided under this section shall be used only for developing and providing educational curricula for substance abuse counseling (including paying salaries for instructors). Such curricula may be provided through satellite campus programs.

Contracts.  
Grants.

"(c) A contract entered into or a grant provided under this section shall be for a period of one year. Such contract or grant may be renewed for an additional one year period upon the approval of the Secretary.

"(d) Not later than 180 days after the date of the enactment of this section, the Secretary, after consultation with Indian tribes and administrators of accredited tribally controlled community colleges, tribally controlled postsecondary vocational institutions, and eligible community colleges, shall develop and issue criteria for the review and approval of applications for funding (including applications for renewals of funding) under this section. Such criteria shall ensure that demonstration projects established under this section promote the development of the capacity of such entities to educate substance abuse counselors.

"(e) The Secretary shall provide such technical and other assistance as may be necessary to enable grant recipients to comply with the provisions of this section.

Reports.

"(f) The Secretary shall submit to the President, for inclusion in the report which is required to be submitted under section 801 for fiscal year 1999, a report on the findings and conclusions derived from the demonstration projects conducted under this section.

"(g) For the purposes of this section, the following definitions apply:

"(1) The term 'educational curriculum' means one or more of the following:

"(A) Classroom education.

"(B) Clinical work experience.

"(C) Continuing education workshops.

"(2) The term 'eligible community college' means an accredited community college that—

“(i) is located on or near an Indian reservation;  
“(ii) has entered into a cooperative agreement with the governing body of such Indian reservation to carry out a demonstration project under this section; and  
“(iii) has a student enrollment of not less than 10 percent Indian.

“(3) The term ‘tribally controlled community college’ has the meaning given such term in section 2(a)(4) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801(a)(4)).

“(4) The term ‘tribally controlled postsecondary vocational institution’ has the meaning given such term in section 390(2) of the Tribally Controlled Vocational Institutions Support Act of 1990 (20 U.S.C. 2397h(2)).

“(h) There are authorized to be appropriated for each of the fiscal years 1993, 1994, 1995, 1996, and 1997, such sums as may be necessary to carry out the purposes of this section. Such sums shall remain available until expended.

#### “GILA RIVER ALCOHOL AND SUBSTANCE ABUSE TREATMENT FACILITY

“SEC. 712. (a) The Secretary, acting through the Service, shall establish a regional youth alcohol and substance abuse prevention and treatment center in Sacaton, Arizona, on the Gila River Indian Reservation. The center shall be established within facilities leased, with the consent of the Gila River Indian Community, by the Service from such Community.

Establishment.  
Arizona.  
25 USC 1665k.

“(b) The center established pursuant to this section shall be known as the ‘Regional Youth Alcohol and Substance Abuse Prevention and Treatment Center’.

“(c) The Secretary, acting through the Service, shall establish, as a unit of the regional center, a youth alcohol and substance abuse prevention and treatment facility in Fallon, Nevada.

Establishment.  
Nevada.

#### “ALASKA NATIVE DRUG AND ALCOHOL ABUSE DEMONSTRATION PROJECT

“SEC. 713. (a) The Secretary, acting through the Service, shall make grants to the Alaska Native Health Board for the conduct of a two-part community-based demonstration project to reduce drug and alcohol abuse in Alaska Native villages and to rehabilitate families afflicted by such abuse. Sixty percent of such grant funds shall be used by the Health Board to stimulate coordinated community development programs in villages seeking to organize to combat alcohol and drug use. Forty percent of such grant funds shall be transferred to a qualified nonprofit corporation providing alcohol recovery services in the village of St. Mary’s, Alaska, to enlarge and strengthen a family life demonstration program of rehabilitation for families that have been or are afflicted by alcoholism.

Grants.  
25 USC 1665l.

“(b) The Secretary shall submit to the President for inclusion in the report required to be submitted to the Congress under section 801 for fiscal year 1995 an evaluation of the demonstration project established under subsection (a).

Reports.

#### “AUTHORIZATION OF APPROPRIATIONS

“SEC. 714. Except as provided in sections 703, 706, 708, 710, and 711, there are authorized to be appropriated such sums as

25 USC 1665m.

may be necessary for each fiscal year through fiscal year 2000 to carry out the provisions of this title.”.

(b) REDESIGNATION AND REPEAL OF EXISTING PROVISIONS.—

25 USC 2471,  
2414a.

(1) REDESIGNATION.—The Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2401 et seq.) is amended by redesignating section 4224 as section 4208A.

25 USC 2472-  
2478.

(2) REPEAL.—Part 6 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2471 et seq.), as amended by paragraph (1), is hereby repealed.

**SEC. 703. INDIAN ALCOHOL AND SUBSTANCE ABUSE PREVENTION AND TREATMENT ACT OF 1986 AMENDMENTS.**

The Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2401 et seq.) is amended—

25 USC 2412.

(1) in section 4206—

(A) in subsection (c)—

(i) in paragraph (2)—

(I) by striking “(2) the” and inserting “(B) the”;

(II) by striking “(3) the” and inserting “(C) the”;

(III) by striking “(4) the” and inserting “(D) the”;

(IV) in subparagraph (D) (as redesignated by subclause (III)), by striking “and” at the end;

(V) in subparagraph (E), by striking the period at the end and inserting “, and”; and

(VI) by adding at the end the following new subparagraph:

“(F) an evaluation component to measure the success of efforts made.”; and

(ii) by adding at the end the following new paragraph:

“(3) All Tribal Action Plans shall be updated every 2 years.”;

and

(B) in subsection (d), by amending paragraph (2) to read as follows:

“(2) There are authorized to be appropriated for grants under this subsection not more than \$2,000,000 for fiscal year 1993 and such sums as are necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.”; and

(C) by adding at the end the following new subsection:

“(f)(1) The Secretary of the Interior may make grants to Indian tribes adopting a resolution pursuant to subsection (a) to implement and develop community and in-school training, education, and prevention programs on alcohol and substance abuse, fetal alcohol syndrome and fetal alcohol effect.

“(2) Funds provided under this section may be used for, but are not limited to, the development and implementation of tribal programs for—

“(A) youth employment;

“(B) youth recreation;

“(C) youth cultural activities;

“(D) community awareness programs; and

“(E) community training and education programs.

“(3) There are authorized to be appropriated to carry out the provisions of this subsection \$5,000,000 for fiscal year 1993 and

such sums as are necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.”;

(2) in section 4207(b), by amending paragraph (3) to read 25 USC 2418.  
as follows:

“(3) The Assistant Secretary of the Interior for Indian Affairs shall appoint such employees to work in the Office of Alcohol and Substance Abuse, and shall provide such funding, services, and equipment as may be necessary to enable the Office of Alcohol and Substance Abuse to carry out its responsibilities.”;

(3) in section 4210, by amending subsection (b) to read 25 USC 2416.  
as follows:

“(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$500,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.”;

(4) in section 4212(a), by striking out “1989, 1990, 1991, 1992” and inserting in lieu thereof “1993, 1994, 1995, 1996, 1997, 1998, 1999, and 2000”; 25 USC 2432.

(5) in section 4213(e), by amending paragraphs (1) and (2) to read as follows: 25 USC 2433.

“(1) For the planning and design, construction, and renovation of, or purchase or lease of land or facilities for, emergency shelters and half-way houses to provide emergency care for Indian youth, there are authorized to be appropriated \$10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.

“(2) For the staffing and operation of emergency shelters and half-way houses, there are authorized to be appropriated \$5,000,000 for fiscal year 1993 and \$7,000,000 for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.”;

(6) in section 4216(a)(1)—

(A) in subparagraph (A), by striking “and” at the end;

(B) in subparagraph (B), by striking the period at the end and inserting “, and”; and

(C) by adding at the end the following new subparagraph:

“(C) the Makah Indian Tribe of Washington for the investigation and control of illegal narcotic traffic on the Makah Indian Reservation arising from its proximity to international waters.”;

25 USC 2442.

Washington.

(7) by amending section 4216(a)(3) to read as follows:

“(3) For the purpose of providing the assistance required by this subsection, there are authorized to be appropriated—

“(A) \$500,000 under paragraph (1)(A) for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000,

“(B) \$500,000 under paragraph (1)(B) for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000, and

“(C) \$500,000 under paragraph (1)(C) for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.”;

(8) by amending section 4216(b) to read as follows:

“(b)(1) MARIJUANA ERADICATION AND INTERDICTION.—The Secretary of the Interior, in cooperation with appropriate Federal, tribal, and State and local law enforcement agencies, shall establish

and implement a program for the eradication of marijuana cultivation, and interdiction, investigation, and control of illegal narcotics trafficking within Indian country as defined in section 1152 of title 18, United States Code. The Secretary shall establish a priority for the use of funds appropriated under paragraph (2) for those Indian reservations where the scope of the problem is most critical, and such funds shall be available for contracting by Indian tribes pursuant to the Indian Self-Determination Act (25 U.S.C. 450f et seq.).

“(2) For the purpose of establishing the program required by paragraph (1), there are authorized to be appropriated \$2,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.”

25 USC 2451.

(9) in section 4218, by amending subsection (b) to read as follows:

“(b) AUTHORIZATION.—For the purposes of providing the training required by subsection (a), there are authorized to be appropriated \$2,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999 and 2000.”; and

25 USC 2453.

(10) in section 4220(b), by amending paragraphs (1) and (2) to read as follows:

“(1) For the purpose of constructing or renovating juvenile detention centers as provided in subsection (a), there are authorized to be appropriated \$10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.

“(2) For the purpose of staffing and operating juvenile detention centers, there are authorized to be appropriated \$7,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.”.

## TITLE VIII—MISCELLANEOUS

### SEC. 801. REPORTS.

Section 801 of the Act (25 U.S.C. 1671) (as redesignated by section 701(b) of this Act) is amended to read as follows:

#### “REPORTS

“SEC. 801. The President shall, at the time the budget is submitted under section 1105 of title 31, United States Code, for each fiscal year transmit to the Congress a report containing—

“(1) a report on the progress made in meeting the objectives of this Act, including a review of programs established or assisted pursuant to this Act and an assessment and recommendations of additional programs or additional assistance necessary to, at a minimum, provide health services to Indians, and ensure a health status for Indians, which are at a parity with the health services available to and the health status of, the general population;

“(2) a report on whether, and to what extent, new national health care programs, benefits, initiatives, or financing systems have had an impact on the purposes of this Act and any steps that the Secretary may have taken to consult with Indian tribes to address such impact;

“(3) a report on the use of health services by Indians—  
 “(A) on a national and area or other relevant geographical basis;

“(B) by gender and age;

“(C) by source of payment and type of service; and

“(D) comparing such rates of use with rates of use among comparable non-Indian populations.

“(4) a separate statement which specifies the amount of funds requested to carry out the provisions of section 201;

“(5) a separate statement of the total amount obligated or expended in the most recently completed fiscal year to achieve each of the objectives described in section 814, relating to infant and maternal mortality and fetal alcohol syndrome;

“(6) the reports required by sections 3(d), 108(n), 203(b), 209(j), 301(c), 302(g), 305(a)(3), 403, 708(e), and 817(a), and 822(f);

“(7) for fiscal year 1995, the report required by sections 702(c)(3) and 713(b);

“(8) for fiscal year 1997, the interim report required by section 307(h)(1); and

“(9) for fiscal year 1999, the reports required by sections 307(h)(2), 512(b), 711(f), and 821(g).”.

#### SEC. 802. REGULATIONS.

Section 802 of the Act (25 U.S.C. 1672) (as redesignated by section 701(b) of this Act) is amended to read as follows:

##### “REGULATIONS

“SEC. 802. Prior to any revision of or amendment to rules or regulations promulgated pursuant to this Act, the Secretary shall consult with Indian tribes and appropriate national or regional Indian organizations and shall publish any proposed revision or amendment in the Federal Register not less than sixty days prior to the effective date of such revision or amendment in order to provide adequate notice to, and receive comments from, other interested parties.”.

Federal  
Register,  
publication.

#### SEC. 803. EXTENSION OF TREATMENT OF ARIZONA AS A CONTRACT HEALTH SERVICE DELIVERY AREA.

Section 808 of the Act (25 U.S.C. 1678) (as redesignated by section 701(b) of this Act) is amended by striking out “1991” and inserting in lieu thereof “2000”.

#### SEC. 804. INFANT AND MATERNAL MORTALITY; FETAL ALCOHOL SYNDROME.

Section 814 of the Act (25 U.S.C. 1680d) (as redesignated by section 701(b) of this Act) is amended—

(1) by striking out “(a)”; and

(2) by striking out subsection (b).

#### SEC. 805. REALLOCATION OF BASE RESOURCES.

Section 817(a) of the Act (25 U.S.C. 1680(g)) (as redesignated by section 701(b) of this Act) is amended by striking out “Secretary has submitted to the Congress” and inserting in lieu thereof the following: “Secretary has submitted to the President, for inclusion in the report required to be transmitted to the Congress under section 801.”.

25 USC 1680g.

**SEC. 806. CHILD SEXUAL ABUSE TREATMENT PROGRAMS.**

Section 819 of the Act (25 U.S.C. 1680i) (as redesignated by section 701(b) of this Act) is amended to read as follows:

**"CHILD SEXUAL ABUSE TREATMENT PROGRAMS**

"SEC. 819. (a) The Secretary and the Secretary of the Interior shall, for each fiscal year through fiscal year 1995, continue the demonstration programs involving treatment for child sexual abuse provided through the Hopi Tribe and the Assiniboine and Sioux Tribes of the Fort Peck Reservation.

"(b) Beginning October 1, 1995, the Secretary and the Secretary of the Interior may establish, in any service area, demonstration programs involving treatment for child sexual abuse, except that the Secretaries may not establish a greater number of such programs in one service area than in any other service area until there is an equal number of such programs established with respect to all service areas from which the Secretary receives qualified applications during the application period (as determined by the Secretary)."

**SEC. 807. TRIBAL LEASING.**

Section 820 of the Act (25 U.S.C. 1680j) (as redesignated by section 701(b) of this Act) is amended to read as follows:

**"TRIBAL LEASING**

"SEC. 820. Indian tribes providing health care services pursuant to a contract entered into under the Indian Self-Determination Act may lease permanent structures for the purpose of providing such health care services without obtaining advance approval in appropriation Acts."

**SEC. 808. EXTENSION OF TERMINATION DATE OF CERTAIN DEMONSTRATION PROJECTS; JOINT VENTURE PROJECTS.**

Section 818 of the Act (25 U.S.C. 1680h) (as redesignated by section 701(b) of this Act) is amended—

(1) in subsection (d)—

(A) in paragraph (1), by inserting before the period at the end the following: " , or, in the case of a demonstration project for which a grant is made after September 30, 1990, three years after the date on which such grant is made"; and

(B) in paragraph (2), by striking "1994" and inserting "1996"; and

(2) by amending subsection (e) to read as follows:

Contracts.

"(e)(1) The Secretary, acting through the Service, shall make arrangements with Indian tribes to establish joint venture demonstration projects under which an Indian tribe shall expend tribal, private, or other available nontribal funds, for the acquisition or construction of a health facility for a minimum of 20 years, under a no-cost lease, in exchange for agreement by the Service to provide the equipment, supplies, and staffing for the operation and maintenance of such a health facility. A tribe may utilize tribal funds, private sector, or other available resources, including loan guarantees, to fulfill its commitment under this subsection.

"(2) The Secretary shall make such an arrangement with an Indian tribe only if the Secretary first determines that the Indian

tribe has the administrative and financial capabilities necessary to complete the timely acquisition or construction of the health facility described in paragraph (1).

“(3) An Indian tribe or tribal organization that has entered into a written agreement with the Secretary under this subsection, and that breaches or terminates without cause such agreement, shall be liable to the United States for the amount that has been paid to the tribe, or paid to a third party on the tribe’s behalf, under the agreement. The Secretary has the right to recover tangible property (including supplies), and equipment, less depreciation, and any funds expended for operations and maintenance under this section. The preceding sentence does not apply to any funds expended for the delivery of health care services, or for personnel or staffing, shall be recoverable.”.

**SEC. 809. HOME AND COMMUNITY BASED CARE DEMONSTRATION PROJECT.**

Title VIII of the Act (as redesignated by subsections (a) and (b) of section 701 of this Act) is amended by adding at the end the following new section:

**“HOME- AND COMMUNITY-BASED CARE DEMONSTRATION PROJECT**

“SEC. 821. (a) The Secretary, acting through the Service, is authorized to enter into contracts with, or make grants to, Indian tribes or tribal organizations providing health care services pursuant to a contract entered into under the Indian Self-Determination Act, to establish demonstration projects for the delivery of home- and community-based services to functionally disabled Indians. 25 USC 1680k.

“(b)(1) Funds provided for a demonstration project under this section shall be used only for the delivery of home- and community-based services (including transportation services) to functionally disabled Indians.

“(2) Such funds may not be used—

“(A) to make cash payments to functionally disabled Indians;

“(B) to provide room and board for functionally disabled Indians;

“(C) for the construction or renovation of facilities or the purchase of medical equipment; or

“(D) for the provision of nursing facility services.

“(c) Not later than 180 days after the date of the enactment of this section, the Secretary, after consultation with Indian tribes and tribal organizations, shall develop and issue criteria for the approval of applications submitted under this section. Such criteria shall ensure that demonstration projects established under this section promote the development of the capacity of tribes and tribal organizations to deliver, or arrange for the delivery of, high quality, culturally appropriate home- and community-based services to functionally disabled Indians;

“(d) The Secretary shall provide such technical and other assistance as may be necessary to enable applicants to comply with the provisions of this section.

“(e) At the discretion of the tribe or tribal organization, services provided under a demonstration project established under this section may be provided (on a cost basis) to persons otherwise ineligible for the health care benefits of the Service.



"(f) The Secretary shall establish not more than 24 demonstration projects under this section. The Secretary may not establish a greater number of demonstration projects under this section in one service area than in any other service area until there is an equal number of such demonstration projects established with respect to all service areas from which the Secretary receives applications during the application period (as determined by the Secretary) which meet the criteria issued pursuant to subsection (c).

**Reports.**

"(g) The Secretary shall submit to the President, for inclusion in the report which is required to be submitted under section 801 for fiscal year 1999, a report on the findings and conclusions derived from the demonstration projects conducted under this section, together with legislative recommendations.

"(h) For the purposes of this section, the following definitions shall apply:

"(1) The term 'home- and community-based services' means one or more of the following:

"(A) Homemaker/home health aide services.

"(B) Chore services.

"(C) Personal care services.

"(D) Nursing care services provided outside of a nursing facility by, or under the supervision of, a registered nurse.

"(E) Respite care.

"(F) Training for family members in managing a functionally disabled individual.

"(G) Adult day care.

"(H) Such other home- and community-based services as the Secretary may approve.

"(2) The term 'functionally disabled' means an individual who is determined to require home- and community-based services based on an assessment that uses criteria (including, at the discretion of the tribe or tribal organization, activities of daily living) developed by the tribe or tribal organization.

"(i) There are authorized to be appropriated for each of the fiscal years 1993, 1994, 1995, 1996, and 1997 such sums as may be necessary to carry out this section. Such sums shall remain available until expended."

**SEC. 810. SHARED SERVICES DEMONSTRATION PROJECTS.**

Title VIII of the Act (as redesignated by subsections (a) and (b) of section 701 and amended by section 809 of this Act) is amended by adding at the end the following new section:

**"SHARED SERVICES DEMONSTRATION PROJECT**

25 USC 16801.

"SEC. 822. (a) The Secretary, acting through the Service and notwithstanding any other provision of law, is authorized to enter into contracts with Indian tribes or tribal organizations to establish not more than 6 shared services demonstration projects for the delivery of long-term care to Indians. Such projects shall provide for the sharing of staff or other services between a Service facility and a nursing facility owned and operated (directly or by contract) by such Indian tribe or tribal organization.

"(b) A contract entered into pursuant to subsection (a)—

"(1) may, at the request of the Indian tribe or tribal organization, delegate to such tribe or tribal organization such

powers of supervision and control over Service employees as the Secretary deems necessary to carry out the purposes of this section;

"(2) shall provide that expenses (including salaries) relating to services that are shared between the Service facility and the tribal facility be allocated proportionately between the Service and the tribe or tribal organization; and

"(3) may authorize such tribe or tribal organization to construct, renovate, or expand a nursing facility (including the construction of a facility attached to a Service facility), except that no funds appropriated for the Service shall be obligated or expended for such purpose.

"(c) To be eligible for a contract under this section, a tribe or tribal organization, shall, as of the date of the enactment of this Act—

"(1) own and operate (directly or by contract) a nursing facility;

"(2) have entered into an agreement with a consultant to develop a plan for meeting the long-term needs of the tribe or tribal organization; or

"(3) have adopted a tribal resolution providing for the construction of a nursing facility.

"(d) Any nursing facility for which a contract is entered into under this section shall meet the requirements for nursing facilities under section 1919 of the Social Security Act.

"(e) The Secretary shall provide such technical and other assistance as may be necessary to enable applicants to comply with the provisions of this section.

"(f) The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 801, a report on the findings and conclusions derived from the demonstration projects conducted under this section."

Reports.

#### SEC. 811. RESULTS OF DEMONSTRATION PROJECTS.

Title VIII of the Act (as redesignated by subsections (a) and (b) of section 701 and amended by section 810 of this Act) is amended by adding at the end the following new section:

##### "RESULTS OF DEMONSTRATION PROJECTS

"SEC. 823. The Secretary shall provide for the dissemination to Indian tribes of the findings and results of demonstration projects conducted under this Act."

25 USC 1680m.

#### SEC. 812. PRIORITY FOR INDIAN RESERVATIONS.

Title VIII of the Act (as redesignated by subsections (a) and (b) of section 701 and amended by section 811 of this Act) is amended by adding at the end the following new section:

##### "PRIORITY FOR INDIAN RESERVATIONS

"SEC. 824. (a) Beginning on the date of the enactment of this section, the Bureau of Indian Affairs and the Service shall, in all matters involving the reorganization or development of Service facilities, or in the establishment of related employment projects to address unemployment conditions in economically depressed areas, give priority to locating such facilities and projects on Indian lands if requested by the Indian tribe with jurisdiction over such lands.

25 USC 1680n.

“(b) For purposes of this section, the term “Indian lands” means—

“(1) all lands within the limits of any Indian reservation; and

“(2) any lands title which is held in trust by the United States for the benefit of any Indian tribe or individual Indian, or held by any Indian tribe or individual Indian subject to restriction by the United States against alienation and over which an Indian tribe exercises governmental power.”.

#### SEC. 813. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—Title VIII of the Act (as redesignated by subsections (a) and (b) of section 701 and amended by section 812 of this Act) is amended by adding at the end the following new section:

##### “AUTHORIZATION OF APPROPRIATIONS

25 USC 1680o.

“SEC. 825. Except as provided in section 821, there are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2000 to carry out this title.”.

(b) CONFORMING AMENDMENTS.—Section 807 of the Act (25 U.S.C. 1677) (as redesignated by subsections (a) and (b) of section 701 of this Act) is amended by striking out subsection (f).

#### SEC. 814. TRIBAL SELF-GOVERNANCE PROJECT.

The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450f note) is amended—

25 USC 450f  
note.

(1) in section 301, by inserting after “Interior” the following: “and the Secretary of Health and Human Services (hereafter in this title referred to as the ‘Secretaries’) each”;

25 USC 450f  
note.

(2) in sections 302, 303, 304, and 305, by striking “Secretary” each place it appears and inserting in lieu thereof “Secretaries”;

(3) in section 303(a)(1), by inserting after “Interior” the following: “and the Indian Health Service of the Department of Health and Human Services”; and

25 USC 450f  
note.

(4) by adding after section 309 the following new section:

“SEC. 310. For the purposes of providing one year planning and negotiations grants to the Indian tribes identified by section 302, with respect to the programs, activities, functions, or services of the Indian Health Service, there are authorized to be appropriated such sums as may be necessary to carry out such purposes. Upon completion of an authorized planning activity or a comparable planning activity by a tribe, the Secretary is authorized to negotiate and implement a Compact of Self-Governance and Annual Funding Agreement with such tribe.”.

## TITLE IX—TECHNICAL CORRECTIONS

#### SEC. 901. REPEAL OF EXPIRED REPORTING REQUIREMENTS.

The Act is amended—

25 USC 1616i.  
25 USC 1621c.

(1) in section 116, by striking out subsection (d);

(2) in section 204(a)—

(A) by striking out paragraph (2);

(B) by striking out “(a)(1)” and inserting in lieu thereof “(a)”;

(C) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively; and

(D) in paragraph (2) (as redesignated by subparagraph (C)), by striking out "subparagraph (A)" and inserting in lieu thereof "paragraph (1)";

(3) in section 602, by striking out subsection (a)(3); and 25 USC 1662.

(4) by striking out section 803 (as redesignated by section 701(b) of this Act). 25 USC 1673.

#### SEC. 902. OTHER TECHNICAL CORRECTIONS.

The Act is amended—

(1) in section 4(c), by striking out "sections 102, 103, and 201(c)(5)," and inserting in lieu thereof the following: "sections 102 and 103,"; 25 USC 1603.

(2) in title I—

(A) in section 102(b)(1), by striking out: "Provided, That the" and inserting in lieu thereof ". The"; 25 USC 1612.

(B) in section 105(c), by striking out "Department of Health, Education, and Welfare" and inserting in lieu thereof "Department of Health and Human Services"; 25 USC 1614.

(C) in section 108(d)(1)(A), by striking out "Indian Health" and inserting in lieu thereof "Indian health"; and 25 USC 1616a.

(D) in section 108(i), by striking out "Service manpower programs" and inserting in lieu thereof "health professional programs of the Service".

(3) in title II—

25 USC 1621h.

(A) by striking out "**SEC. 209. MENTAL HEALTH PREVENTION AND TREATMENT SERVICES.**" and inserting in lieu thereof the following:

"MENTAL HEALTH PREVENTION AND TREATMENT SERVICES

"SEC. 209."; and

(B) in section 209, by redesignating subsections (c) through (l) as subsections (b) through (k), respectively; (4) in title III—

(A) by striking out "**SEC. 307. INDIAN HEALTH CARE DELIVERY DEMONSTRATION PROJECT.**" and inserting in lieu thereof the following: 25 USC 1637.

"INDIAN HEALTH CARE DELIVERY DEMONSTRATION PROJECT

"SEC. 307."; and

(B) in section 301(d) (as redesignated by section 301(2) of this Act), by striking out "sections 102 and 103(b)" and inserting in lieu thereof "section 102"; 25 USC 1631.

(5) in title V—

(A) by striking out "**SEC. 409. FACILITIES RENOVATION.**" and inserting in lieu thereof the following: 25 USC 1659.

"FACILITIES RENOVATION

"SEC. 509."; and

(B) by striking out "**SEC. 511. URBAN HEALTH PROGRAMS BRANCH.**" and inserting in lieu thereof the following: 25 USC 1660.

## "URBAN HEALTH PROGRAMS BRANCH

- 25 USC 1661. "SEC. 510.;"  
 (6) in section 601(c)(3)(D), by striking out "(25 U.S.C. 2005, et seq.)" and inserting in lieu thereof "(42 U.S.C. 2005 et seq.)";  
 (7) in section 601(d)(1)(C), by striking out "appropriate" and inserting in lieu thereof "appropriated";  
 25 USC 1680c. (8) in section 813(b)(2)(A) (as redesignated by section 701(b) of this Act), by striking out "section 402(c)" and inserting in lieu thereof "section 402(a)"; and  
 25 USC 1680f. (9) by amending the heading for section 816 (as redesignated by section 701(b)) to read as follows:

"INDIAN HEALTH SERVICE AND DEPARTMENT OF VETERANS AFFAIRS  
 HEALTH FACILITIES AND SERVICES SHARING".

Approved October 29, 1992.

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**LEGISLATIVE HISTORY—S. 2481:**

SENATE REPORTS: No. 102-392 (Comm. on Indian Affairs).  
 CONGRESSIONAL RECORD, Vol. 138 (1992):

Sept. 18, considered and passed Senate.

Oct. 2, 3, considered and passed House, amended.

Oct. 7, Senate concurred in House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):  
 Oct. 29, Presidential statement.

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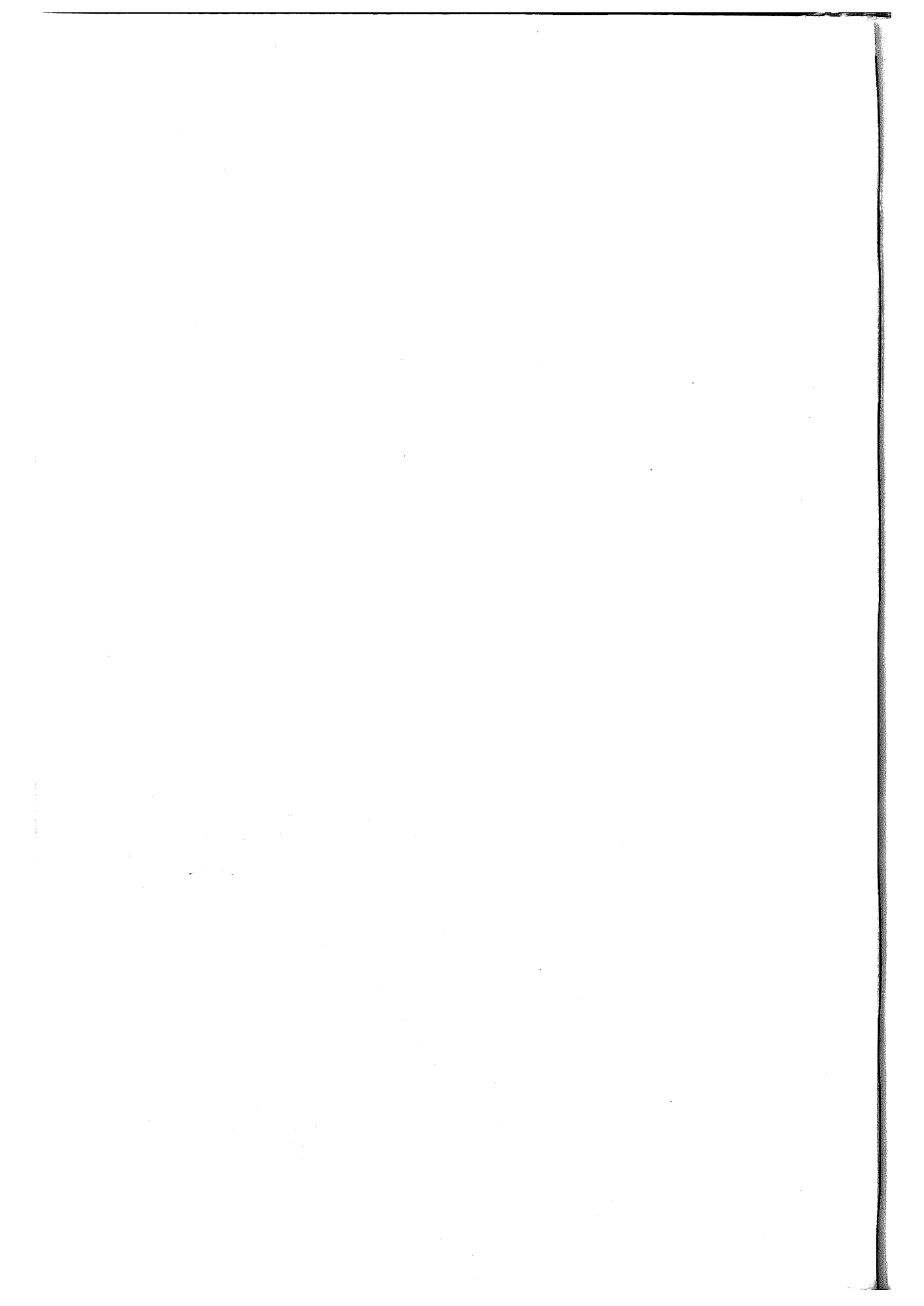
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